

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No.2429 of 2016
Date of Decision:5.4.2016**

Bhateri (deceased) through her Legal representative Ajay

---Petitioner

vs.

Sh. Subash and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Raman Chawla, Advocate
for the petitioner

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present petition lays challenge to order dated 21.3.2016 (Annexure P-4) passed by the Civil Judge (Senior Division), Siwani vide which the application dated 19.3.2016 (Annexure P-3) filed by the plaintiffs for seeking police help to cut the mustard and wheat crop has been dismissed.

Counsel for the petitioner would contend that Smt. Bimla and others including Ms. Bhateri (since deceased) represented by her legal representative have filed a suit for permanent injunction to restrain the

defendants/respondents No. 1 to 4 from interfering in peaceful possession and ownership of the plaintiffs regarding suit land measuring 235 kanals, detailed in head note of the plaint and in respect of khasra No. 292//3-6/1 where the plaintiffs are residing in a dhani. The contesting respondents/defendants failed to put in appearance despite service and they were proceeded against ex parte vide order dated 11.3.2016 (Annexure P-1). The learned trial court passed interim order dated 11.3.2016 restraining the defendants not to interfere in the suit property of the plaintiff except in due course of law. An application dated 19.3.2016 (Annexure P-3) was filed for providing police help but the same has been wrongly and illegally dismissed by the learned trial court by relying upon the judgments referred to in the order impugned. It is argued with vehemence that merely because an alternative remedy to file an application under Order 39 Rule 2(A) of the Code of Civil Procedure is available to express grievance against violation of an injunction order passed by the court is not sufficient to decline the prayer of the petitioner for providing police help to enable the plaintiffs to harvest mustard and wheat crops standing on the suit land.

I have heard counsel for the petitioner, perused the paper book particularly the order dated 11.3.2016, the application dated 19.3.2016 and the order impugned.

The petitioner has not placed on record a copy of the plaint for appreciation of the pleadings in regard to claim of the petitioner that the plaintiffs are in possession of suit land measuring 235 kanals and a dhani (residential house in a field) comprised in khasra No. 292//3-6/1. Similarly, no document has been placed on record in support of the contention that the

plaintiffs including Bhateri now represented by petitioner Ajay are in possession of the suit land. Perusal of the order dated 11.3.2016 would make it evident that the learned trial court neither adverted to the allegations made in the plaint nor to any other material placed on record in support of plea of the plaintiffs qua possession of the suit land and passed one line order in the following terms:-

“Till then, defendants shall not interfere in the suit property of the plaintiff except in due course of law.”

No finding has been recorded by the trial court that prima facie it has been established that the plaintiffs are in possession of the suit land including dhani comprised khasra No. 292//3-6/1. Not only this, the application dated 19.3.2016 filed for seeking police help is too vague to allow any such plea of the plaintiffs for providing police help for enforcement of the aforesaid order passed by the trial court. In the application, it has been averred that the above order cannot be duly affected without police help because there is chance of murder of any party at the spot and heavy loss of ripping crops.

The learned trial court has rightly noticed that plaintiffs have not attributed any overt act to the defendants warranting exercise of discretion to provide police help for enforcement of ex parte stay order. Further the court has held that if there is possibility of any law and order situation being created at the spot, the plaintiffs have to approach the police for redressal of their grievance and in case the police fails to initiate appropriate action, they have to seek remedial measures in accordance with law. In the given facts and circumstances, wherein the learned trial court,

on a detailed consideration of the entire matter in right perspective by referring to various judgments on the issue has rightly rejected plea of the petitioner, I do not find any reason to interfere in the impugned order.

For the foregoing reasons, finding no merit, the petition is dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

5.4.2016
paramjit