

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No.44 of 2016 (O&M)
Date of decision:15.01.2016**

Gurbachan Singh and others

... Petitioners

Vs.

Malkiat Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. N.S.Wahniwal, Advocate, for the petitioners.

AMIT RAWAL J. (Oral)

The petitioner-defendant/appellants before the lower Appellate Court is aggrieved of the order dated 08.12.2015 (Annexure P-1), passed by the Additional District Judge, Faridkot, whereby, the application seeking framing of additional issues, has been dismissed.

Mr. N.S.Wahniwal, learned counsel for the petitioners submits that in a simpliciter suit for permanent injunction, sometimes title can also be decided. Since the appellants sought the relief of permanent injunction on the premise that they are owners in possession and failed to prove on record the same, yet the trial Court rendered the findings by granting the injunction in their favour. Though the judgment and decree, aforementioned, decreeing the suit is a matter of challenge before the lower Appellate Court but before

adjudication of the lis between the parties, following additional issues are required to framed which read thus:-

- “i) Whether Partap Singh predecessor in interest of the plaintiff purchased land in question from Natha Singh, prior to consolidation if so, its effect? OPP*
- ii) Whether the plaintiff and their predecessor in interest remained in possession of suit land, as owner? OPP”*

In support of his aforementioned contentions, he has relied upon the judgments of the Hon'ble Supreme Court, as well as, of this Court in **Gangai Vinayagar Temple & others vs. Meenakshi Ammal & others 2009(4) R.C.R.(Civil) 696** and in **Jai Ram vs. Mukh Ram 2013(1) PLR 503**, respectively, to contend that in a suit for injunction, the question of title may arise.

I have heard learned counsel for the petitioners and appraised the paper book.

The issues framed in the suit read thus:

- “1. Whether plaintiff is entitled for permanent injunction, as prayed for ? OPP*
- 2. Whether the suit of the plaintiff is not maintainable in the present form? OPD*
- 3. Whether the defendants are owners of the suit land in question, if so its effect? OPD.*
- 4. Relief.”*

From the perusal of the aforementioned issues, it is

apparent that there is no issue vis-a-vis ownership, rather issue of ownership of defendants was framed and onus was upon them. The contention, that the plaintiffs failed to prove on record the title in the absence of any sale deed would be matter of consideration before the First Appellate Court. Issues sought to be framed, in my view, are not required to be framed.

It is a matter of record that the petitioners had already filed a suit for declaration claiming title, which is stated to be pending. However, revision against the order seeking rejection of plaint is pending in this Court. Since the petitioners have availed the remedy, in accordance with law claiming the ownership, the question of title would be matter of adjudication in the aforementioned suit. Since the present suit was simpliciter for permanent injunction, in my view, framing of additional issue is not essential and necessary.

Keeping in view the aforementioned observations, I do not intend to interfere in the impugned order which is just, fair and legal.

Accordingly, the revision petition is dismissed.

It is made clear that the lower Appellate Court shall decide the appeal uninfluenced with the findings rendered by this Court.

(AMIT RAWAL)
JUDGE

January 15, 2016
savita