

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

CR No.4646 of 2015

Date of decision : 21.03.2016

Gram Panchayat of village Behlolpur

...Petitioner

Versus

Joginder Pal and ors.

...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. M.L. Saini, Advocate for the petitioner.

Mr. Vivek K. Thakur, Advocate for respondent Nos.1, 2 and 5.

Mr. Shailendra Sharma, Advocate for respondent Nos.3 & 4.

AMIT RAWAL, J. (Oral)

The petitioner-Gram Panchayat-defendant No.4 is aggrieved of the order of lower Appellate Court, whereby miscellaneous appeal filed by respondent-plaintiff against the order dated 17.12.2014 has been accepted and application under Order 39 Rule 1 and 2, has been allowed, in essence, the defendants have been restrained from not to dispossess the appellant-plaintiff forcibly, illegally except in due course of law.

Mr. M.L. Saini, learned counsel appearing on behalf of petitioner submits that impugned order is not sustainable as the trial Court

declined the application on the ground that Deputy Commissioner, Kapurthala to Tehsildar Mal-cum-Sales, Kapurthala in its letter dated 23.02.2012 clearly mentioned that vide mutation No.614 in column no.5, Amrik son of Ram Singh, Mohinder Pal, Joginder Pal son of Rulia Ram have been shown in possession. The Additional Director-cum-ADC already passed the order dated 04.02.2010 and remanded back the matter to Consolidation Officer (C.H.)-cum-DRO Kapurthala. Plaintiff had also challenged the order passed by the Revenue Authorities in writ petition, whereby plaintiffs were directed to take appropriate remedy as available in law. He submits that suit for declaration is not maintainable as possession of the plaintiff is of trespasser and factum of dismissal of writ petition No.24627 of 2013, had not been disclosed.

Mr. Vivek K. Thakur, learned counsel appearing on behalf of respondent Nos.1, 2 and 5 submits that even in the absence of the declaration, consequential relief of permanent injunction has been sought and thus interim application can be decided as suit being maintainable. Had it been so, in simpliciter suit for declaration, no consequential relief of injunction could have been granted. The order under challenge is most innocuous and would not effect the right of Gram Panchayat.

I have heard learned counsel for the parties and appraised the paper book and of the view that impugned order is liable to be upheld for the reasons that it is admitted case of the parties that the plaintiffs are in possession of the suit property though not as owner only. Remedy available is to seek the eviction prescribed under Punjab Village Common Land Act. Gram Panchayat would be at liberty to seek the possession in accordance

with law but not forcibly, much less, interfere. This is what lower Appellate Court in the impugned order has noticed.

I am of the view that interim injunction does not entail into deciding title even if respondents-plaintiffs are seeking declaration in view of Section 34 of Specific Relief Act, 1963.

In view of what has been noticed above, impugned order does not suffers from illegality and perversity, much less, cannot be said to have been passed without jurisdiction which has been upheld.

Revision petition stands dismissed.

21.03.2016

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**(AMIT RAWAL)
JUDGE**