

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.4965 of 2015 (O&M)

Date of Decision.29.09.2016

Krishan Pal and another

.....Petitioners

Vs.

Madan Lal Sharma and others

.....Respondents

Present: Mr. Sudhir Pruthi, Advocate
for the petitioners.

Mr. Arun Jain, Senior Advocate with
Mr. Arjun Vir Sharma, Advocate
for the repondents.

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AMIT RAWAL J. (ORAL)

The petitioners-defendants are aggrieved of the impugned order passed in the misc. appeal filed at the instance of the plaintiff whereby the order granting status quo by the trial Court has been modified.

Mr. Sudhir Pruthi, learned counsel appearing for the petitioners submits that as per the arrangement between the petitioners-defendants and the respondent-plaintiff, both the parties were using the access to their land from each other's lands. But the respondent-plaintiff blocked the *rasta* by hedging the property and put a gate, thus, the ingress and egress of the petitioners-defendants was hindered. Resultantly, the petitioners-defendants also put a gate on the passage to which both the parties are co-owners. In this backdrop of the matter, the aforementioned suit was filed.

The petitioners filed a counter-claim and the same is pending. No doubt, the trial Court ordered the status quo which was not vacated but directed the petitioners-defendants to remove the blockade, hence this revision petition.

This Court during the pendency of the revision petition had

appointed Sh. Subhash Adhlakha as the local commissioner. The local commissioner had gone on the site on 29.07.2016 in the presence of counsel for the parties and also prepared the site plan which has been attached with the revision petition. As per the site plan, there is a clear cut passage from National Highway accessed to khasra No.187 , 188, 189, 190 and 191 belonging to the petitioners-defendants.

He also submitted that some passage has been blocked by iron gate claimed by the parties to be put by Mr. Robin Gupta and he, in order to save the land from acquisition, has also erected a temple. The interim order granted by the Appellate Court may be kept in abeyance with direction to trial Court to expedite the disposal of the case failing which the land of the petitioners will remain barren and they will not be able to cultivate the same.

Per contra, Mr. Arun Jain, learned Senior Counsel assisted by Mr. Arjun Vir Sharma, Advocate submits that in view of the site plan, the petitioners' case is totally fallacious. The fact remains that the passage which has been carved out from National Highway of Khasra No.191 goes to village Moginand. As per record, this passage abuts to National Highway on one side and on the other end to Khasra No.191 of village Moginand which belongs to the defendants. He further submits that regarding the passage both the parties are co-owners and the plaintiffs' land is situated behind the land of the petitioners-defendants and therefore, they have only one access and in this backdrop of the matter, rightly so, the lower Appellate Court issued the directions. He submits that there is no stay of the impugned order and the contempt petition is also stated to be pending, thus, urges this Court for confirming the order under challenge as the

respondents-plaintiffs have been successful in making out the case within the ambit of Order 39 Rules 1 and 2 CPC.

I have heard learned counsel for the parties, appraised the paper book and as well as the report of the local commissioner and the site plan attached thereto. I am of the view that there is a passage from the National Highway to the khasra numbers mentioned above belonging to the petitioners-defendants whereas the respondents-plaintiffs have only one passage which according to the report has been blocked by the petitioners-defendants. In my view, the direction given by the lower Appellate Court is perfect and legal as the plaintiffs are left with no other passage. If at all, the land of other co-owners was being used by the petitioners-defendants for approaching their land, they can still approach the same from the passage shown in the site plan. If at all, it is hindered by some other person, the petitioners-defendants are at liberty to seek vindication of the hindrance in accordance with law but cannot cause hindrance to the respondents-plaintiffs.

For the foregoing reasons, the order under challenge is perfectly legal and justified and the same is confirmed. The revision petition is accordingly dismissed.

However, since the parties are at loggerheads with regard to the passage, I deem it appropriate to issue direction to the trial Court to dispose of the suit as expeditiously as possible and preferably within a period of six months by affording three effective opportunities to each party in the trial as well as in the counter claim. Nothing observed herein shall be considered as expression of opinion on the merits of the case. On instruction from the instructing counsel, Mr. Jain, learned senior counsel submits that the

respondents-plaintiffs will withdraw the contempt petition. The revision petition is dismissed but with the above observations.

(AMIT RAWAL)
JUDGE

September 29, 2016
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No