

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 4773 of 2014

Date of decision : May 16, 2016

Ramesh Chand

..... Petitioner

Versus

Khem Ram & others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. M. S. Randhawa, Advocate
for the petitioner.

Mr. J. P. Sharma, Advocate
for the respondents.

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

Amit Rawal, J (oral).

The petitioner-defendant is aggrieved of the impugned order whereby the lower appellate court accepting the miscellaneous appeal at the instance of the respondents-plaintiffs against ad interim order passed in an application filed under Order 39 Rule 1 and 2 CPC seeking ad interim injunction in a suit for permanent injunction qua forcible interference and dis- possession of the property.

Learned counsel for the petitioner-defendant submits that the lower appellate court on the basis of documents placed on record found that status quo cannot be granted and enjoined the defendants from interfering in the peaceful possession and forcible dispossession. He further submits that the order of the

trial court be restored back and trial court be directed to expedite the trial. The alleged partition proceedings are under challenge in a separate suit claiming declaration. In essence, the partition proceedings have not attained finality.

Learned counsel appearing on behalf of the respondent-plaintiff submits that in pursuance to the order passed by the revenue authority with regard to the partition proceedings, mutation shows possession of the plaintiffs much less jamabandi and khasra girdawari. The same has been annexed along with the suit. Noticing the aforementioned documents, the lower appellate court modified the order of the trial court by injuncting the petitioner-defendant from interfering and dispossession, even the defendants in a suit for declaration sought interim stay which was declined. The suit has already reached final stage, therefore, this Court may not interfere by invoking the jurisdiction under Article 227 of the Constitution of India.

I have heard learned counsel for the parties and appraised the paper book and of the view that its too late in a day to seek setting aside of the order under challenge as much water has flown during the pendency of the revision petition in restoring order by the trial court, inasmuch as the suit was filed in the year 2012. The lower appellate court prima facie examined the documentary evidence placed on record, and prima facie formed an opinion that the land in dispute had been mutated in the name of plaintiffs-respondents. Even khasra girdawaries are also in his favour, therefore the status quo order would have a far reaching

consequences, particularly when respondent-plaintiff is a senior citizen.

Mr. J.P. Sharma, learned counsel appearing on behalf of the respondents apprised the Court that suit has reached at the final stage, I am of the view that ad interim directions issued by the lower appellate court directed to be maintained during the pendency of the suit.

In view of the above, I do not find any illegality and perversity in the impugned order and the same cannot be said to have been passed without jurisdiction.

The revision petition is devoid of merits.
Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

May 16 , 2016
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