

Civil Revision No. 6662 of 2015

1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 6662 of 2015
Date of Decision : 18.02.2016

Rajender Singh

...Petitioner

Versus

Suresh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

- 1) *Whether Reporters of the 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?*

Present: Mr. A.K. Goel, Advocate for the petitioner.

Mr. Sudhanshu Makkar, Advocate
for the respondents.

Paramjeet Singh Dhaliwal, J.(Oral)

The respondents/plaintiffs filed a suit against the Gram Panchayat Gujrani and one Rajender Singh (petitioner herein) restraining the petitioner-defendant from changing the basic structure of Johar known as Lehriwala Johar comprised in Khasra No. 175 measuring 275 kanals 06 marlas as per jamabandi for the year 2008-09, situated in the revenue estate of Village Gujrani, Tehsil and District Bhiwani.

Along with the suit, an application under order 39 Rules 1 and 2 read with Section 151 CPC for permanent

injunction was filed. The trial Court after considering the evidence on record, prima-facie came to the conclusion that as per the revenue record, the property in question is a Johar and Gram Panchayat appears to have over-stepped its power and has acted beyond its jurisdiction and is trying to change the nature of Johar by building a Dharamshala (chaupal) for a particular community and as such is wasting johar property. The said finding has been affirmed by the learned Additional Sessions Judge in its order dated 17.07.2015. Hence, this revision petition.

Learned counsel for the petitioner vehemently contended that already sufficient construction has been made and further construction is going on. The johar has partly been filled upto 15 sq. yards, where the construction is likely to be carried out.

I have heard learned counsel for the parties and perused the case file very carefully.

In a Division Bench judgment of this Court in ***Rajpal and another Vs. State of Haryana and others***, decided on 22.11.2012, it has been held that in these times of falling water levels and scarcity of water, the Government and the Gram Panchayat are duty bound to ensure that water bodies are protected, cleaned and if deficient in water, recharged.

In a judgment of Hon'ble Supreme Court in ***Hinch Lal***

Tiwari Vs. Kamala Devi and others, 2001(6) SCC 496, where a similar controversy came up for consideration, it has been held as under :-

“13. It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The government, including the Revenue Authorities i.e. respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites.”

In view of the above stated facts and circumstances and the law laid down by this Court and the Hon'ble Supreme Court, noted above, the learned Courts below have rightly passed ad-interim injunction and no interference is called for by this Court.

Dismissed.

February 18, 2016.
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(PARAMJEET SINGH DHALIWAL)
JUDGE