

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.1818 of 2010

Date of Decision:14.12.2017

Jaswant Singh @ Billu

...Petitioner

Versus

Nobat Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Jai Vir Yadav, Advocate for the petitioner.
Mr.O.P.Goyal, Sr. Advocate with
Ms.Ritika Gupta, Advocate for respondents No.1 to 4.

ANIL KSHETARPAL, J. (ORAL)

This revision petition has been filed by defendant No.2 against an order on an application under Order 39 Rule 2 A of the Code of Civil Procedure.

This Court, by a separate judgment of even date, has dismissed the appeal bearing RSA No.1015 of 2010 filed by the petitioner.

The plaintiff filed a suit on 1.1.1999 against the defendants. The learned trial court on 1.1.1999 directed the parties to maintain status quo. The order was extended on 27.1.1999. The aforesaid order was violated. The learned trial court appointed a Local Commissioner, who visited the spot on 5.2.1999. The Local Commissioner reported that a new shop was being constructed on the spot. No objection to the aforesaid report was filed.

The learned trial court, after considering the evidence available on the file, dismissed the application. However, the learned first appellate court allowed the appeal and directed attachment of the property of defendant No.2-petitioner till he pays a compensation of Rs.66,000/- @ Rs.6,000/- per month to the plaintiff as mesne profit. Defendant No.2-

appellant was also directed to pay a cost of Rs.20,000/- for demolition and reconstruction of the shop. In default, defendant No.2 (petitioner herein) will be liable to undergo simple imprisonment up to the period of three months unless he gives an undertaking for compliance of the order.

Learned counsel for the petitioner has submitted that the report of the Local Commissioner has not been proved on the file.

I have considered the submission.

Local Commissioner was appointed by the Court to investigate and report about the factual position. He was an officer of the Court, who was appointed by the Court to report about the current situation. The report of Local Commissioner is part of the official record of the court. It is not required to be proved in evidence by examining the Local Commissioner.

In the present case, learned court below had appointed an Advocate practising in the District court, who was not connected with the case, to visit the spot and submit a report. Local Commissioner visited the spot on 5.2.1999 and reported to the court that construction was going on.

In view of the aforesaid report, there is no escape from the conclusion that the order passed by the learned first appellate court does not require any interference. The order, directing the maintenance of status quo, was passed in the presence of defendant No.2.

In view of above, there is no scope for interference in the impugned order and accordingly, the instant civil revision petition is dismissed.

14.12.2017
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No