

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.1095 of 2017 (O&M)
Date of decision: 15.02.2017

Jitender Kumar and another

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sanjiv Gupta, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present revision petition is directed against the order dated 12.12.2016 (Annexure P-3) passed by the learned first appellate Court, whereby application moved by the petitioners under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, during pendency of their first appeal, was dismissed by the learned Additional District Judge, Narnaul.

Heard learned counsel for the petitioners.

It is a matter of record that suit for declaration filed by the petitioners-plaintiffs was dismissed by the learned trial Court vide its judgment and decree dated 02.11.2015 (Annexure P-1). Dissatisfied, plaintiffs-petitioners filed their first appeal (Annexure P-2), which is pending consideration before the learned first appellate Court. The entire case of the petitioners, as sought to

be argued by learned counsel for the petitioners, is that the respondent-Department should not allot the land adjoining to the property of the petitioners to anybody else, except to the petitioners.

However, it is not pleaded or argued case on behalf of the petitioners that it is their property alone, with which the property of the respondent-Department is attached. Further, it is not the vested right of the petitioners alone. There would be other similarly situated residents of the area who might be equally entitled for getting the land allotted, at the hands of the respondent-Department. Under these circumstances, when no vested right is there in favour of the petitioners, learned first appellate Court committed no error of law, while passing the impugned order and the same deserves to be upheld.

During the course of hearing, learned counsel for the petitioners could not point out any patent illegality or perversity in the impugned order passed by the learned first appellate Court, while dismissing their application under Order 39 Rules 1 and 2, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction. No prejudice, as such, has been caused or likely to be caused to the petitioners, while passing the impugned order. Their appeal is yet to be decided by the learned first appellate Court. Under these circumstances, it can be safely concluded that the learned first appellate Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered

view that present revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No ground for interference has been made out.

However, before parting with the order, it is made clear that the abovesaid observations made by this Court shall not influence the learned first appellate court, while deciding the appeal on merits.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

15.02.2017
vishnu

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No