

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

C.R. No. 2193 of 2017 (O&M)

Date of Decision:- 27.03.2017

Jaspal Singh

....Petitioner

vs.

Gurmeet Singh

....Respondent

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Hariom Sharma, Advocate,
for the petitioner.

DAYA CHAUDHARY, J.

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside impugned order dated 15.2.2017 passed by the Additional District Judge, Karnal, whereby order dated 11.9.2015 passed by the Civil Judge (Junior Division), Karnal has been upheld.

Briefly the facts of the case are that plaintiff-respondent filed a suit for permanent injunction against the defendant-petitioner for staying dispossession from the land in dispute. Notice in the suit was issued and written statement was filed thereafter. Plaintiff-respondent also filed an application under Order 39 Rules 1 and 2 CPC, which was contested by defendant-petitioner and was dismissed vide order dated 11.9.2015.

The plaintiff-respondent filed an appeal against order dated

11.9.2015 which was allowed by the learned Additional District Judge, Karnal vide order dated 15.2.2017 directing the parties to maintain status quo qua the suit property. Aggrieved by order dated 15.2.2017 passed by the Lower Appellate Court, the present revision petition has been filed by raising various grounds.

Earlier, the plaintiff-respondent in collusion with one Ran Singh filed a civil suit against the defendant-petitioner which was dismissed vide order dated 23.10.2010. The appeal filed against the aforesaid order was also dismissed vide order dated 21.8.2013.

Learned counsel for the petitioner submits that the petitioner is in possession of the land in dispute but in the column of cultivator in the copy of jamabandi, plaintiff-respondent has been shown to be in possession of the land in dispute. In the column of owner, the land has been shown to be in the name of Haryana Government. Learned counsel also submits that there is no evidence regarding possession of petitioner-defendant over the land in dispute but only on the basis of receipt issued by the irrigation department, plaintiff-respondent has been shown to be in possession. At the end, learned counsel for the petitioner submits that impugned order is liable to be set aside as the same is contrary to facts and evidence.

Heard arguments of learned counsel for the petitioner and have also perused the impugned order passed by the trial Court as well as by the Lower Appellate Court.

On perusal of order passed by the trial Court, it transpires that both the parties are claiming possession over the land in dispute. By considering the stand of both the parties and also in the interest of justice,

they were directed to maintain status quo qua property in dispute till the decision of main case by the Lower Appellate Court.

In case both the parties are claiming their respective possession over the land in dispute it is always better to direct status quo as it would be a matter of adjudication by the trial Court and nothing can be said at this stage as to which of the party is in possession of the land in dispute. In case, both the parties are claiming their respective possession over the land in dispute the same will be continued till the conclusion of the trial.

The trial Court while deciding the application has observed as under:-

“9. In the present application, the main contention of the learned counsel for the applicant-plaintiff is that he is in possession over the suit land since 1968 and earlier the plaintiff was a tenant over the suit land but later on the defendant agreed to sell the suit land in favour of plaintiff for a total sale consideration of Rs. 7,50,000/-. The defendant has received Rs.4,52,000/- till today and now the defendant has become dishonest and he is trying to dispossess the plaintiff from the suit land. This contention of the counsel for the applicant-plaintiff does not find force as from the perusal of the case file, it is seen that as per jamabandi for the year 2011-12, the defendant Jaspal Singh is shown in possession over the suit land and the owners of the suit land is State Government. Further, the defendant is only relying upon

the documents vide which he has deposited the amount with the Irrigation Department but such document is not prima-facie proof of possession of the plaintiff. Moreover, no agreement to sell has been placed on record by the plaintiff and mere hand-written receipt does not suffice. Thus, the applicant-plaintiff has failed to show that he is in possession over the suit land. Hence, this court is of the considered opinion that the applicant-plaintiff does not have a prima-facie case, balance of convenience and he would not suffer any irreparable loss if injunction is not granted in his favour.”

The grant or refusal of an interim injunction in a civil suit is the most important stage in the civil trial. Due care, caution, or diligence should be taken by the judicial officers and judges while granting or refusing injunction. Once an injunction is granted, it takes time to vacate that order.

In Maria Margarida Sequeria Fernandes and others vs. Erasmo Jack de Sequeria (dead) through L.Rs. and others, 2012(2) RCR (Civil) 441, the observation of Hon'ble the Supreme Court in such like matter is as under: -

“Grant or refusal of an injunction

86. Grant or refusal of an injunction in a civil suit is the most important stage in the civil trial. Due care, caution, diligence and attention must be bestowed by the judicial officers and judges while granting or refusing injunction. In most cases,

the fate of the case is decided by grant or refusal of an injunction. Experience has shown that once an injunction is granted, getting it vacated would become a nightmare for the defendant. In order to grant or refuse injunction, the judicial officer or the judge must carefully examine the entire pleadings and documents with utmost care and seriousness.”

Similarly in **Wander Ltd. vs. Antox India (P) Ltd., 1990**

Supp. SCC 727, this view has been affirmed, which is reproduced as under: -

“In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally

not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion.”

In **Skyline Education Institute (India) Pvt. Ltd. v. S.L. Vaswani (2010) 2 SCC 142**, the 3-Judge Bench considered a somewhat similar question in the context of the refusal of the trial Court and the High Court to pass an order of temporary injunction, referred to the judgments in **Wander Ltd. v. Antox India (P) Ltd. (supra)**, **N.R. Dongre v. Whirlpool Corpn. (1996) 5 SCC 714** and observed:

“The ratio of the abovenoted judgments is that once the court of first instance exercises its discretion to grant or refuse to grant relief of temporary injunction and the said exercise of discretion is based upon objective consideration of the material placed before the court and is supported by cogent reasons, the appellate court will be loath to interfere simply because on a de novo consideration of the matter it is possible for the appellate court to form a

different opinion on the issues of prima facie case, balance of convenience, irreparable injury and equity.”

Accordingly, no interference is required in the impugned order and the revision petition being devoid of any merit is hereby dismissed.

March 27, 2017 poonam	(DAYA CHAUDHARY) JUDGE
Whether speaking/reasoned	Yes
Whether reportable	Yes