

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.2482 of 2017 (O&M)
Date of decision: 05.04.2017

Subhash Chand and others

... Petitioners

Vs.

Om Parkash and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sanjiv Kumar Aggarwal, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the order dated 30.03.2017 passed by the learned Additional District Judge, whereby miscellaneous appeal of the plaintiffs-respondents was allowed against an order dated 12.01.2017 passed by the learned trial Court in an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure ('CPC' for short), defendants have approached this Court by way of present revision petition under Article 227 of the Constitution of India.

Heard learned counsel for the petitioners.

It is a matter of record that in the jamabandi as well as in the khasra girdawari, plaintiffs are recorded as owners in possession. On the other hand, defendants-petitioners claim themselves to be in possession as lessees. When

the plaintiffs along with their suit for permanent injunction based on title, filed an application under Order 39 Rules 1 and 2 CPC, praying for interim injunction, the learned trial Court directed the parties to maintain status quo regarding possession over the suit property, vide its order dated 12.01.2017.

Feeling aggrieved against the abovesaid order dated 12.01.2017, both the parties filed their respective miscellaneous appeals, which came to be decided by the learned Additional District Judge, vide his common impugned order dated 30.03.2017. Appeal of the petitioners-defendants was dismissed, whereas the appeal of plaintiffs-respondents was allowed.

The basic fallacy in the case of the petitioners-defendants is that the relevant revenue record, including jamabandi for the year 2010-11 as well as khasra girdawari for the year 2015-16, clearly speak in favour of the plaintiffs-respondents and against the defendants-petitioners. Oral statement of the defendants cannot be given preference over the relevant revenue record. Having said that, this Court feels no hesitation to conclude that learned Additional District Judge was well within his jurisdiction to allow the miscellaneous appeal of the plaintiffs and dismiss the appeal of the defendants, modifying the abovesaid order dated 12.01.2017 passed by the learned trial Court and the impugned order deserves to be upheld.

Once the plaintiffs were having a prima facie case in their favour and their plea of being in physical possession over the suit land, was also supported by the relevant revenue record, the learned trial Court was not justified in directing the parties to maintain status quo regarding possession. It is so said because in such a situation, the parties would try to misuse the order of the Court, trying to outsmart each other.

It has been experienced by this Court that whenever the parties are directed to maintain status quo regarding possession, the party, who is out of possession, try to dispossess the party in possession, with a view to defeat the genuine claim of the other side. So far as the facts of the present case are concerned, the learned Additional District Judge was well justified in observing that the plaintiffs were having a prima facie case and they were entitled for interim injunction.

Had the plea taken by the defendants-petitioners been true, they would have certainly moved an appropriate application before the revenue authorities for carrying out correction in the khasra girdawari. However, they did not do so, for the reasons best known to them. Under these undisputed facts and circumstances of the case noticed hereinabove, it can be safely concluded that the learned Additional District Judge committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioners could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The impugned order has been found duly supported by sound reasons and the same deserves to be upheld, for this reason as well.

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 since no illegality has been found in the impugned order passed by the

learned Additional District Judge, the same deserves to be upheld. The revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No ground for interference has been made out.

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

05.04.2017
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

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