

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

128

CR-2722 of 2017

Date of Decision:31.07.2017

Balwinder Singh

.....Petitioner

Versus

Lovejot Singh and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

**Present: Mr.Arun Jindal, Advocate,
for the petitioner.**

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the impugned order dated 11.01.2017 passed by the learned Additional District Judge, whereby miscellaneous appeal was dismissed, upholding the order dated 21.07.2016 of the learned trial court, dismissing the stay application under Order 39 Rules 1 and 2 of the Code of Civil Procedure (in short “the CPC”), plaintiff has approached this Court by way of instant revision petition, filed under Article 227 of the Constitution of India, for setting aside the impugned orders (Annexures P-1 and P-2).

Heard learned counsel for the petitioner.

It is a matter of record that the petitioner and respondents are co-sharers in the joint suit property. Instead of filing a suit for separate possession by way of partition, plaintiff filed the suit for permanent injunction. It was during the pendency of the suit that the plaintiff-petitioner filed an application under Order 39 Rules 1 and 2 CPC, seeking

ad interim injunction against the defendants, which has been dismissed by both the learned courts below.

A combined reading of both the impugned orders passed by the learned courts below would make it crystal clear that the law laid down by this Court has been rightly followed by the learned trial court as well as by the learned first appellate court, by observing that unless the joint property is not finally partitioned by metes and bounds, all the co-sharers would be deemed to be in its possession. Even if the present petitioner was claiming his exclusive possession, said possession would be treated to be on behalf of all the co-sharers because suit land is still joint. In this view of the matter, no fault can be found with the impugned orders passed by both the learned courts below and the same deserve to be upheld.

No prejudice of any kind whatsoever has been caused to the petitioner nor any such prejudice has been pointed out by the learned counsel for the petitioner during the course of arguments. Having said that, this Court feels no hesitation to conclude that both the learned courts below were well within their jurisdiction to pass the impugned orders and the same deserve to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned orders passed by the learned courts below, 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 orders have been found based on sound reasons and the same deserve 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 the present revision petition is misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

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

July 31, 2017
seema

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No