

C.R. No. 3688 of 2017 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No. 3688 of 2017 (O&M)

DATE OF DECISION:19.05.2017

Chetan Kalia

.....Petitioner

Versus

Kashmiri Lal and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. KDS Sodhi, Advocate
for the petitioner.

DAYA CHAUDHARY, J.

The present revision petition has been filed for setting aside impugned order dated 20.5.2014 (Annexure P-1) passed by Civil Judge (Junior Division), Phagwara, vide which, an application filed under Order 39 Rules 1 and 2 read with Section 151 CPC by the petitioner-plaintiff was dismissed as well as order dated 21.3.2017, vide which, the appeal filed against aforesaid order was also dismissed by Additional District Judge, Kapurthala.

Briefly, the facts of the case are that the petitioner-plaintiff filed a civil suit for permanent injunction restraining the respondents from dispossessing the petitioner-plaintiff from the suit property. Along with the suit, an application under Order 39 Rules 1 and 2 CPC was also filed alleging therein that respondents No. 1 to 3 be restrained from dispossessing

the petitioner from the suit property. Reply of the application was filed and ultimately the application was dismissed by the trial Court vide order dated 20.5.2014. Aggrieved by the said order, the petitioner preferred an appeal before the Additional District Judge, Kapurthala, which was also dismissed vide order dated 21.3.2017. Orders dated 20.5.2014 and 21.3.2017 are subject matter of challenge in the present revision petition.

Learned counsel for the petitioner contends that both the Courts below have not taken into consideration the contents of the application and without giving any specific finding, the application as well as appeal have been dismissed. Learned counsel further contends that great prejudice will be caused to the petitioner in case interim order is not passed in favour of the petitioner-plaintiff.

Heard the arguments advanced by learned counsel for the petitioner and have also gone through the impugned orders and other documents available on the file.

The facts relating to filing of suit and an application under Order 39 Rules 1 and 2 CPC by the petitioner-plaintiff are not disputed. Both the Courts below have dismissed the application and appeal for interim stay. A perusal of impugned order dated 20.5.2014 clearly shows that warrants of possession of property in dispute were issued as per decree passed against the petitioner-plaintiff in the earlier suit. The present suit was filed by the petitioner with an attempt to obstruct the execution of the decree passed by the learned Civil Judge (Junior Division) on 16.8.2010. Similarly, the lower appellate Court has also dismissed the appeal filed against the order passed by the trial Court. A perusal of impugned orders and other documents available on the file clearly shows that the petitioner-plaintiff has filed the present suit for permanent injunction restraining the

respondents to interfere into the possession over the suit property. As per case of the petitioner-plaintiff, he is licensee of defendant No.1, whereas, as per case of defendant No.1, he never appointed the petitioner as licensee and the petitioner-plaintiff in connivance with proforma defendants in order to frustrate the judgment and decree dated 16.8.2010 has filed the present suit. The execution is pending in the earlier suit and warrants of possession have also been issued against proforma defendants No.1 and 2. The prayer for injunction has rightly been declined by the learned trial Court as well as by the lower appellate Court and as such there is no reason to interference in the well reasoned orders passed by both the Courts below.

In view of the facts and findings recorded by both the Courts below, I find no reason to interfere in the orders passed by both the Courts below. Accordingly, the present revision petition being devoid of any merit is hereby dismissed.

May 19, 2017
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes