

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CR No. 3789 of 2017

Date of decision : July 10, 2017

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Dhanvir Singh

.....Petitioner

Versus

Faqir Chand and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Rajiv Joshi, Advocate for the petitioner.

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RITU BAHRI, J.

The present revision petition has been filed under Article 227 of the Constitution for quashing of the order dated 1.4.2017 passed by Civil Judge (Junior Division), Derabassi whereby an application under Section 10 CPC for stay of proceedings has been dismissed.

A perusal of the impugned order shows that respondents no. 1 to 4/plaintiffs had filed a suit challenging the instrument of partition issued by AC Ist Grade, Dera Bassi dated 2.5.2005 in partition file bearing no.57/Tehsil dated 03.11.1998 of Village Gazipur titled as, 'Dhanvir Singh and others vs. Lachman Singh and others' regarding partition of the land of village Gazipur. In this suit permanent injunction was also sought restraining the defendant no.2-AC Ist Grade, Dera Bassi, Distt. SAS Nagar

from implementing the said instrument of partition. Defendants-respondents have filed the CWP No. 6797 of 2010 before this Court and in the said civil writ petition, the instrument of partition dated 2.5.2005 has already been challenged. Vide order of this Court dated 19.4.2010, the dispossession of the petitioners has been stayed in CWP No. 6797 of 2010.

This Court has not stayed the proceedings of the suit filed by respondents no. 1 to 4/plaintiffs in the year 2011. In the suit of the plaintiffs, the evidence is required to be led for the relief of the declaration and permanent injunction and similarly the defendants who are contesting the suit would be required to prove their stance by leading their evidence. Hence the application for stay of the proceedings has been rightly dismissed. Moreover when dispossession of the petitioners has been stayed, the proceedings of the trial are not required to be stayed as in this suit, the pleadings would have to be completed and necessary evidence is required to be led by both the parties.

In view of all that has been discussed above, present revision petition is dismissed.

July 10, 2017

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(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No