

CR No. 4832 of 2017 (O&M)

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

CR No. 4832 of 2017 (O&M)

Date of decision: 4.8.2017

Pritpal Singh and others

...Petitioners

Versus

Gurdev Singh and others

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Keshav Pratap Singh, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the order dated 10.7.2017 (Annexure P-8), passed by the learned Additional District Judge, whereby miscellaneous appeal of the plaintiffs was allowed, setting aside the order dated 7.2.2017 of the learned trial court and the application of plaintiffs under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure ('CPC' for short), was allowed, defendants have approached this Court by way of present revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioners.

A bare perusal of the impugned order dated 10.7.2017 (Annexure P-8) would show that it is a very detailed and exhaustive order, wherein the learned Additional District Judge discussed each and every

CR No. 4832 of 2017 (O&M)

relevant detail. All the four brothers, including present petitioner No.1, were signatory to the documents, according to which all the brothers have amicably settled the issue regarding their possession. Further, petitioner No.1 has clearly admitted exclusive possession of plaintiff No.2 over the suit land. On the basis of these relevant averments and admission by petitioner No.1, learned first appellate court rightly arrived at a judicious conclusion that plaintiffs were entitled for ad interim injunction, during the pendency of the suit. Accordingly, order dated 7.2.2017 passed by the learned trial court, dismissing the application of plaintiffs under Order XXXIX Rules 1 and 2 CPC, was set aside by the learned Additional District Judge. Having said that, this Court feels no hesitation to conclude that the learned Additional District Judge was well within his jurisdiction to pass the impugned order and the same deserves to be upheld.

Once the plaintiffs have fulfilled all the three basic ingredients for granting ad interim injunction, namely, i) a prima facie case, ii) balance of convenience and iii) causing of irreparable loss in case of denial of ad interim injunction, the learned trial court itself ought to have allowed their application under Order XXXIX Rules 1 and 2 CPC. However, since the learned trial court could not appreciate true facts and circumstances of the case, while passing the impugned order dated 7.2.2017, it was rightly set aside by the learned Additional District Judge by way of impugned order. In this view of the matter, it can be safely concluded that learned Additional District Judge committed no error of law, while passing the impugned order and the same deserves to be upheld.

The submission made by learned counsel for the petitioners that agreement amongst all the four brothers to which petitioner No.1 was

CR No. 4832 of 2017 (O&M)

signatory could not have been relied upon by the learned Additional District Judge for the purpose of granting ad interim injunction in favour of the plaintiffs has been duly considered but found wholly misplaced. It is so said because once petitioner No.1 himself was signatory to the mutual settlement, he could not be permitted to turn around and say that said document cannot be read into evidence for the purpose of granting ad interim injunction in their favour.

Correctness of said agreement and also denial thereof by petitioner No.1 would be appreciated by the learned trial court after going through the evidence which is yet to be led by the parties. However, so far as issue of granting ad interim injunction is concerned, plaintiffs-respondents were rightly found entitled by the learned Additional District Judge for said limited relief at this stage of the litigation. Had ad interim injunction not been granted to the plaintiffs, an irreparable loss would have been caused to them and very purpose of filing the suit would be defeated. Further, once a prima facie case was found to be made out and balance of convenience was also proved, the learned first appellate court was well justified in granting ad interim injunction in favour of the plaintiffs and the impugned order (Annexure P-8) passed by the learned Additional District Judge deserves 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 order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In fact, the impugned order has been found duly supported by sound reasons and the same deserve to be upheld.

CR No. 4832 of 2017 (O&M)

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

4.8.2017

AK Sharma

(RAMESHWAR SINGH MALIK)

JUDGE

Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No