

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

CR-5193 of 2017(O&M)

Date of Decision:08.08.2017

Amrik Singh

.....Petitioner

Versus

Gram Panchayat and others

.....Respondents

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

Present: Mr.Amarjit Singh Ahluwalia, Advocate,
for the petitioner.

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the order dated 07.07.2017 (Annexure P-5), whereby an application under Order 1 Rule 10 of the Code of Civil Procedure (for short “the CPC”) moved by some of the respondents, was allowed by the learned trial court, 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 order.

Heard learned counsel for the petitioner.

It is a matter of record that the petitioner himself has filed the suit under Order 1 Rule 8 CPC, seeking permanent injunction restraining the defendant-respondent Gram Panchayat from leasing out the land in Khasra No.272 (3-11). It was also the argued case on behalf of the plaintiff-petitioner that there was a cremation ground in Khasra No.272. However, said assertion of the petitioner came to be found as incorrect on the basis of report sought by the Director, Rural Development and Panchayat Punjab.

Accordingly, Resolution dated 12.09.2013 passed by the respondent-Gram

Panchayat was set aside. Cremation ground was found existing in Khasra No.60 instead of Khasra No.272.

Gram Panchayat approached this Court by way of CWP No.26289 of 2013, which also came to be dismissed by this Court vide its order dated 18.04.2017, holding that the cremation ground was existing in Khasra No.60. Order passed by the learned Director, Rural Development and Panchayat Punjab, was found to be legal and valid and the same was accordingly upheld. In this view of the matter, no fault can be found with the impugned order passed by the learned trial court and the same deserves to be upheld.

Further, in the very nature of suit already filed by the petitioner-plaintiff in the representative capacity, no prejudice was likely to be caused to him, by allowing the application under Order 1 Rule 10 CPC, by way of impugned order passed by the learned trial court. As per his own pleaded case, every resident of village would be an interested party. Once that is so, the learned trial court committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

So far as the judgment of this Court in **Ranbir Singh and another Versus Ran Singh and others**, 2006(2) PLR 362, relied upon by the learned counsel for the petitioner is concerned, there is no dispute about the observations made and law laid down therein. However, on a close perusal of the cited judgment, it has not been found to be of any help to the petitioner, being distinguishable on facts.

It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one

circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in Padmasundara Rao (Dead) Vs. State of Tamil Nadu and others, 2002 (3) SCC 533, Union of India Vs. Amrit Lal Manchanda and others, 2004 (3) SCC 75, State of Orissa Vs. Md. Illiyas, 2006 (1) SCC 275 and State of Rajasthan VS. Ganeshi Lal, 2008 (2) SCC 533.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order passed by the learned trial court, 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 based on 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 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.

August 08, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No