

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.596 of 2012 (O&M)

Date of decision: 04.09.2017

Municipal Council, Rajpura and another

... Petitioners

Vs.

Jai Kaur (deceased) through LRs

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Vishwajit Bedi, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Unsuccessful defendants are in civil revision petition against the concurrent findings of facts recorded by both the learned Courts below, whereby suit for permanent injunction filed by the plaintiff was decreed by the learned trial Court vide its impugned judgment and decree dated 01.12.2007 and the first appeal filed by the defendants also came to be dismissed by the learned first appellate Court vide its impugned order dated 14.12.2010.

Brief facts of the case, as recorded by learned trial Court in para 2 of its impugned judgment, are that the defendants put the plot measuring 100ft x 50 ft situated in front of Vishavkarma Bhawan, Mohinder Ganj Road, Rajpura in open auction of lease and the plaintiff, being the highest bidder in the auction conducted on 17.02.1965, took the same on lease from the defendants. The auction of the plaintiff was also confirmed by the defendants vide resolution dated 17.02.1965 and the intimation thereof was sent to the plaintiff vide letter dated 27.02.1965. The plaintiff, as such, was in possession of the plot in question and the same was given by the defendants on lease @Rs.7/- p.m. The

plaintiff had also paid amount upto 31.03.2001. Defendants threatened to dispossess the plaintiff.

Having been put to notice, defendants appeared and filed their contesting written statement, raising more than one preliminary objections. Plaintiff filed her replication. On completion of pleadings of the parties, learned trial Court framed the following issues: -

1. Whether plaintiff is entitled to the relief of permanent injunction as prayed for? OPP
2. Relief.

In order to prove their respective stands taken in their pleadings, both the parties brought on record their documentary as well as oral evidence. After hearing learned counsel for the parties and going through the evidence brought on record, learned trial Court came to the conclusion that plaintiff has duly proved her case by leading cogent and convincing evidence. In fact, it was admitted by the defendants that plaintiff was in possession for the last more than 35 years. The learned trial Court granted the decree of permanent injunction in favour of the plaintiff, however, leaving it open to the defendants to seek their possession in accordance with law. Accordingly, suit of the plaintiff was decreed by the learned trial Court vide its judgment and decree dated 01.12.2007.

Instead of filing their suit for possession on the basis of title, defendants filed their first appeal along with an application under Section 5 of the Limitation Act for condonation of delay of about five months. The learned first appellate Court dismissed the application for condonation of delay and also dismissed the appeal vide its impugned order dated 14.12.2010. Hence this civil revision petition at the hands of defendants.

Heard learned counsel for the petitioners.

From a bare perusal of the impugned judgment and decree of the learned trial Court as well as the impugned order dated 14.12.2010 passed by the learned Additional District Judge, it becomes crystal clear that instant wholly unwarranted litigation is being pursued unnecessarily by the defendants wasting their time as well as public money. It is so said because it was made clear to the defendants by the learned trial Court itself that they would be at liberty to seek their possession in accordance with law. The decree passed in favour of the plaintiff was only limited to the extent that the plaintiff would not be dispossessed by the defendants-petitioners, except in due course of law. The impugned decreed passed by the learned trial Court as well as the impugned order passed by the learned first appellate Court were not going to adversely affect the title of the petitioners.

Once the title of the petitioners-defendants was not in dispute, they were at liberty to seek their possession from the plaintiff or anybody else, if the plaintiff had put some other person in possession, by taking recourse to the appropriate proceedings in accordance with law. However, the petitioners did not do so, for the reasons best known to them. Having said that, this Court feels no hesitation to conclude that the learned Courts below committed no error of law, while passing the impugned judgment and order and the same deserve to be upheld.

Had there been some substance on the merits of the case, it would have been entirely different situation. Once the defendants-petitioners were not without remedy, which was specifically pointed out to them by the learned trial Court as well as by the learned first appellate Court and said remedy was not being availed by the petitioners and that too for no good reasons, they had no

case either on facts or in law, so far as the present revision petition is concerned. Under these undisputed circumstances of the case, it can be safely concluded that the learned Courts below were well within their jurisdiction to pass the impugned judgment and order and the same deserve to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioners could not point out patent illegality or perversity in the impugned judgment and decree passed by the learned trial Court and the impugned order passed by the learned first appellate Court, 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 judgment and order passed by the learned Courts below 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 revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No ground for interference has been made out.

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

[RAMESHWAR SINGH MALIK]
JUDGE

04.09.2017

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No