

CR-247-2017 (O&M)
Date of Decision: 19.07.2018

Kartar Singh and others

.....Petitioners

Versus

Bhagwan Dass and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL**Present:** Mr. Surender Saini, Advocate
for the petitioners.**DEEPAK SIBAL, J. (ORAL)**

Through the present petition challenge is made to the order dated 20.10.2016 passed by the Civil Judge (Junior Division), Gohana (for short 'the Trial Court') through which while allowing the application filed by respondents-defendants under Section 10 CPC, the suit filed by the petitioners has been stayed.

The facts in brief which have been culled out after hearing the learned counsel for the petitioners as also after perusing the record are that on 24.02.2015, the respondents filed a Civil Suit before the Additional Civil Judge (Senior Division), Gohana being '*Civil Suit No.23 of 2015*' titled as '*Bhagwan Dass and others versus Shri Ram and others*' seeking therein the following reliefs:-

“It is, therefore, prayed that a decree of Declaration declaring the rasta measuring 0K-6M i.e. 19 karam x 3 karam out of Killa No.250/18/2 and the plaintiffs be declared owners in possession of Killa No.250/18/3 exclusively in the revenue record particularly in the mutation No.5570-B and the rasta shown in killa No.250/18/3 in the mutation No.5570-B

be declared wrong, illegal, null and void and not binding on the rights of the plaintiffs and liable to be corrected, may kindly be passed in favour of the plaintiffs and against the defendants No.1 to 21.

It is further prayed that a Decree of Mandatory Injunction may kindly be passed in favour of the plaintiffs and against the defendants directing the defendants No.22 to 24 to correct the revenue entries by showing the rasta measuring 0k-6M as common out of Killa No.250/18/2 towards eastern side for killa No.250/26,27 in the revenue record i.e. in the mutation No.5570-B on the grounds mentioned in the plaint.

It is further prayed that a Decree of Permanent Injunction restraining the defendants No.1 to 21 from alienating the killa No.250/18/3 and from dispossessing the plaintiffs from the same and from causing any loss to the house already constructed thereupon in any manner or in any way may kindly be passed in favour of the plaintiffs and against the defendants.

The petitioners who were the defendants in the aforesaid suit, on being put to notice appeared before the Trial Court and filed their written statement through which they *inter alia* denied the existence of the *rasta* measuring 6 marlas. The suit is pending.

In the meanwhile, on 23.07.2015 the petitioners filed another suit before the Civil Judge (Senior Division), Gohana seeking therein an injunction for restraining the respondents/defendants from changing the nature of the area of the same 6 marlas of land which was the subject matter in the earlier suit, without getting the same partitioned.

The subject matter of both the above referred suits was the 6

marlas of land, between the same parties with virtually overlapping reliefs.

In view of the above, no fault can be found in the impugned order staying the petitioners' suit.

Dismissed.

(DEEPAK SIBAL)
JUDGE

19.07.2018

Neha

Whether Speaking/Reportable : Yes/No

Whether Reportable : Yes/No