

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.3380 of 2015

Date of Decision.23.05.2018

Madan Lal

...Petitioner

Vs

Surinder Kumar and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Manish Dadwal, Advocate
for the petitioner.

Mr. D.S. Chanan, Advocate for
Mr. RPS Cheema, Advocate
for respondent No.1 to 6.

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AMIT RAWAL J.(ORAL)

The present revision petition at the instance of the petitioner-plaintiff is directed against the order dated 22.04.2015 (Annexure P-4) passed by the Additional District Judge, Hoshiarpur whereby the misc. appeal filed by the respondents-defendants against the order dated 01.11.2011 passed by the trial Court allowing the application under Order 39 Rule 1 and 2 CPC has been set aside, in essence, the appeal has been allowed.

Mr. Manish Dadwal, learned counsel appearing on behalf of the petitioner submitted that the petitioner-plaintiff instituted the suit bearing No.120 of 18.7.2011 for permanent injunction restraining the defendants themselves through their agents or local police from interfering in any manner and from dispossessing the plaintiff forcibly from the land measuring 34 kanals 17 marlas described in the head note of the plaint (hereinafter called as the "suit land") except in due course of law. Along with the aforementioned suit, an application under Order 39 Rule 1 and 2 CPC was filed for seeking interim injunction. In

support of the case, the petitioner-plaintiff had placed on record jamabandi for the year 1981-82 wherein father of the petitioner-plaintiff Bakshi Ram son of Anant had been shown in the column of possession as *gair marusi*. Even khasra girdawaris were also to that effect. The trial Court granted the interim protection by allowing the application on the premise that the tenant cannot be ejected except in due course of law.

The aforementioned order was assailed by the respondents-defendants in appeal and the lower Appellate Court vide impugned order *ibid* has reversed the finding by partly allowing the appeal holding that the order of the trial Court would be only *vis-a-vis* khasra No.9//24/3(0-8), 31(9-0), 9//23/2(0-13) while rest of the order has been maintained.

He further submitted that the aforementioned order has resulted into an anomalous situation whereby the defendants under the garb of interim order are extending threats for interference, thus, urges this Court for setting aside the impugned order under challenge, keeping in view the fact that the petitioner-plaintiff has proved the ingredients of Order 39 Rule 1 and 2 CPC.

On the other hand, learned counsel appearing on behalf of the respondents-defendants submitted that the order passed by the lower Appellate Court is perfectly legal and justified. The petitioner-plaintiff has not been able to bring the case within the parameters of Order 39 Rule 1 and 2, thus, urges this Court for upholding the order under challenge.

I have heard learned counsel for the parties and appraised the paper book. This Court called upon the counsel to apprise the status

of the suit, for, it is pending adjudication since 2011. However, owing to the non-supply of the information, status of the suit could not be apprised to this Court.

Be that as it may be, the lower Appellate Court has only modified the order with regard to the khasra numbers referred to above. The revision in this Court is pending adjudication from 18.05.2015 without any interim protection and the suit is pending from 2011 i.e. almost seven years have gone by. No antecedent regarding alleged extension of threats has been brought to the notice of this Court.

Therefore, while upholding the order under challenge, I deem it appropriate to dispose of the revision petition with a direction to the trial Court to expedite the trial of the suit and dispose of the same as expeditiously as possible.

(AMIT RAWAL)
JUDGE

May 23, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No