

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.3140 of 2018(O&M)
Date of Decision: 11.05.2018

Milkha Singh & ors.

.... Petitioners

Versus

Gram Panchayat Village Ramgarh
alias Roar Tehsil Pehowa & ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Bhag Singh, Advocate,
for the petitioners.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Article 227 of the Constitution of India, petitioners have laid challenge to order dated 14.02.2018, of the First Appellate Court, setting aside the order of the trial Court dated 30.08.2017, whereby application of the petitioners under Order 39 Rules 1 and 2 CPC was allowed.

In nutshell, the petitioners filed a suit for permanent injunction to restrain respondent-Gram Panchayat from evicting them from the suit land measuring 118 Kanals 7 marlas situated in the Revenue Estate of Ramgarh alias Roar, Tehsil Pehowa, District Kurukshetra, pleading that they were in cultivating possession of the same since the time of their forefathers as lessees under the respondent-Gram Panchayat. Along with suit, the petitioners filed application under Order 39 Rules 1 & 2 CPC for staying their eviction till decision of the suit.

Learned trial Court, after hearing both the sides, accepted the application aforesaid of the petitioners and restrained the respondent-Gram Panchayat from dispossessing them from the suit property forcibly and illegally

except in due course of law vide order dated 30.08.2017.

Being aggrieved, Gram Panchayat-defendant approached the First Appellate Court, challenging the order aforesaid of the trial Court by way of appeal which was accepted and the order dated 30.08.2017 of the trial Court against respondent-Gram Panchayat restraining it from dispossessing the petitioners from the suit land, was set aside.

Learned counsel for the petitioners *inter alia* contends that Sarpanch of the respondent-Gram Panchayat is not permitting the petitioners to participate in the auction for lease of the suit land on yearly basis with a revengeful attitude. The petitioners have constructed their houses on the suit land. Therefore, they have preferential right to participate in the auction and to take the suit land on lease as the highest bidder. If the respondent-Gram Panchayat is not restrained from dispossessing the petitioners from suit land, the petitioners would suffer irreparable loss.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioners, I find that the instant petition is completely devoid of any merit for the reasons to follow:-

Filing of the instant petition is a clever and malafide devise of the petitioners to retain their illegal possession over the suit land raising a false plea that Sarpanch of the respondent-Gram Panchayat is not permitting them to participate in the auction. Said frivolous plea has no legs to stand in the absence of any evidence to this effect. No legal notice or action has been taken till date by the petitioners against the Sarpanch of the Gram Panchayat for not permitting them to participate in the auction. Therefore, the plea of the petitioners is completely false.

The impugned order shows that one of the petitioners namely

Mohinder Singh had earlier filed a suit with similar prayer, raising same plea,

which was rejected in CR No.4662 of 2011 by this Court. This fact has been concealed by the petitioners, intentionally and deliberately in their subsequent suit.

I have gone through the impugned order dated 14.02.2018 of the First Appellate Court and find no illegality or perversity in the same, rather the same is well reasoned and speaking.

In view of discussion made above, the petition fails and is dismissed.

11.05.2018
monika

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No