

203

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Civil Revision No.3244 of 2018 (O&M)
Date of Decision: 15.10.2018**

SATBIR

.....Petitioner

Vs

GRAM PANCHAYAT AND ORS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. R.K. Girdhwal, Advocate
for the petitioner.

Mr. Vipul Aggarwal, Advocate
for respondent No.1.

Mr. R.T. Redhu, D.A.G., Haryana
for respondents No.2 to 5.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has approached this Court against the order dated 11.04.2018 passed by the Addl. District Judge, Gurugram vide which appeal arising out of the order dated 29.08.2017 passed by the Civil Judge (Jr. Divn.), Pataudi was dismissed.

[2]. Perusal of the record would show that the plaintiff has preferred a suit for permanent injunction along with an application under Order 39 Rules 1 and 2 CPC seeking to restrain the Gram Panchayat from dispossessing the

plaintiffs/petitioner forcibly and demolishing the construction existing at the spot in an illegal manner.

[3]. The application was rejected by the trial Court on the premise that encroachment was found on the land of Gram Panchayat and for which notices have been issued to the unauthorized occupants. The encroachment was found on the basis of demarcation report which also showed encroachment on the part of the plaintiffs as well. The objection taken by the defendant Gram Panchayat was only to the effect that under the garb of the suit, plaintiffs want to get their illegal possession perpetuated. The trial Court dismissed the application for grant of *ad interim* relief and the same was upheld by the lower Appellate Court vide the impugned order.

[4]. *Prima facie* it appears from the pleaded facts that no order of ejectment has been passed so far. The scope of suit for permanent injunction shall be determined by the trial Court with reference to the evidence to be adduced by the parties. The issue with regard to the non-issuance of advance notice under Section 205 of the Haryana Panchayat Raj Act would also be deliberated before the concerned Court.

[5]. At this stage, in the absence of any lawful order of ejectment and without meaning anything on the merits of the case, it would be just and appropriate to direct the parties to

maintain *status quo* regarding possession. The trial Court would also be entitled to decide question of jurisdiction in the light of observations made in **Basakhi Ram vs. Suresh Kumar, 1998(3) R.C.R. (Civil) 175** and **Tayabbhai M. Bagasarwalla vs. Hind Rubber Industries Pvt. Ltd., 1997(2) RCR 473 (SC).**

[6]. In view of aforesaid impugned orders dated 11.04.2018 passed by the Addl. District Judge, Gurugram and 29.08.2017 passed by the Civil Judge (Jr. Divn.), Pataudi are hereby set aside. This revision petition is allowed in the aforesaid terms.

October 15, 2018

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No