

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

C.R. No.4674 of 2014 (O&M)

Date of Decision: February 12, 2018

Surinder Singh

...Petitioner

Versus

Harinder Pal Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Navjot Singh Wahniwal, Advocate
for the petitioner.

Mr. Surinder Garg, Advocate
for the respondents.

FATEH DEEP SINGH, J.

The plaintiff-Surinder Singh filed against Harinder Pal Singh and others defendants now respondents, a suit for declaration etc. in which an application under Order 39 Rule 11 CPC for issuing temporary injunction was filed by the plaintiff restraining the defendants from taking forcible possession and interfering in the peaceful possession of the plaintiff's residential house subject matter of the dispute. The Court of learned Civil Judge, Senior Division, Faridkot vide orders dated 26.11.2013 dismissed the application. The same was upheld by the Court of learned Additional District Judge, Faridkot vide orders dated 14.3.2014. The same is subject matter of challenge before this Court.

Upon hearing learned counsel for the parties and perusing the records of the case, it is by no means displaced that originally

one Sodhi Tejinder Singh filed a suit for possession regarding property bearing khasra No.7518 against Parkash Chand and others, wherein plea of adverse possession was taken by defendants which stood dismissed through judgment dated 20.11.1976 and, thus, adverse possession of Parkash Chand remained intact as the appeal against the said judgment and decree stood dismissed vide judgment dated 13.03.1978. After exchanging numbers of hands this property ultimately devolved upon M/s Suraj Rice Mills, Faridkot. It is the claim of the plaintiff that he purchased the suit land from his partner through sale deed dated 20.10.1986 and, therefore, claimed to be owner in possession of the same. It is necessary to mention here that earlier the present plaintiff filed civil suit for permanent injunction against Tejinder Singh which was decreed through judgment dated 16.11.2006 and Surinder Singh/present plaintiff was held to be in possession of the same and the appeal of the Tejinder Singh stood dismissed through judgment dated 3.1.2009. By another quirk of fate, the present defendant Harinder Pal Singh moved the revenue authority for correction of Khasra girdawari regarding 65 kanals of land which forms suit land and which had its own ups and downs before various authorities and ultimately orders of the revenue authority was that these khasra No.7517,7518 and 7529 being part of abadi beyond the jurisdiction of Collector, thus, khasra girdawari could not be corrected. It was subsequent thereto upon threat of the present defendants, the instant suit has come about, wherein, the application for temporary injunction too was filed. As is there before the Court below, the plaintiff-applicant has sought protection of his possession having purchased the property from M/s Suraj Rice Mills, Faridkot, who had purchased it from

Parkash Chand etc. However, what has been noted by the Court below that there was wrong depiction of the property in question and khasra numbers in the records and that the present defendants were vendees from Tejinder Singh and others, who themselves does not have any right, title and interest in the property so alleged to be sold by them. It is well settled proposition of law as has been submitted by learned counsel for the respondent that a person who does not have title in the property cannot convey better title to the third party through alienation. Since Tejinder Singh and others themselves did not have any right, title and interest in the property so they could not forward it to anyone else which could not be controverted by learned counsel for the petitioner. More so, in the own admitted revenue record of jamabandies for the years 2009-2010 the plaintiff and others are shown to be co-sharers in khasra No.7518, whereas, defendants are reflected to be in possession of Khasra Nos.7517,7518 and 7529. In khasra girdawari the plaintiff reflected to be in possession of Khasra Nos.7517,7518 and 7529 which comprises the suit land. Thus, there is ambiguity throughout the question of title as has been taken note by the Court below who has come to a conclusion that no prima facie cause was made out and that correction of Khasra Nos.7517,7518 and 7529 in favour of defendants further complicates the things for the plaintiff-applicant. To the very specific query of the Court, learned counsel for the petitioner could not convince, if any challenge has been laid to the correction of khasra girdawari by the competent authority i.e. Collector and if it is so certainly the same has attained finality qua the parties and the plaintiff certainly cannot claim exclusive possession over this property in question.

Thus, in the totality of what has been detailed and discussed above, no illegality or perversity could be found in the impugned findings which are consistent views of the two Courts below. Thus, the present petition being hopelessly without any merits stands dismissed.

(FATEH DEEP SINGH)
JUDGE

February 12, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No