

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

Sr. No.117

C.R. No.5211 of 2018

Date of decision: 21.08.2018

Jatinder Kumar

....Petitioner

versus

Gram Panchayat and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ram Kumar Saini, Advocate
for the petitioner.

Mr. Sanjay Jain, Advocate
for respondents No.1 to 3.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 05.07.2018 passed by the Civil Judge (Junior Division), Ambala (for short – 'the Trial Court') dismissing the petitioner's application seeking ad interim injunction. Also under challenge is the order dated 24.07.2018 passed by the Additional District Judge, Ambala (for short – 'the Appellate Court') dismissing the petitioner's appeal filed by him against the aforesaid order passed by the Trial Court.

The facts in brief which need to be noticed for adjudicating upon the present petition are that the petitioner filed a suit seeking therein permanent injunction to restrain the respondents from taking possession of Gulla Wala Pond situated in village Nahra, Tehsil Barara, District Ambala, which according to him, had been leased out to him for the purpose of breeding fish for a period of 11 years and he was being dispossessed after 7

years i.e. before the expiry of the lease. The respondents were further sought to be restrained from removing the fish from the aforesaid pond as also from auctioning the same. The case set up by the petitioner was that in an auction which took place in the year 2011, the petitioner being the highest bidder was given sole rights to breed fish in the aforesaid pond. Such rights were granted for a period of 11 years i.e. from 29.03.2011 to 29.03.2022. However, after seven years, his lease was sought to be cancelled on the ground that the lease was not for 11 years but only for 07 years. Along with his suit, the petitioner filed an application seeking interim stay which was declined by the Trial Court as also the Appellate Court. It is in these circumstances that the present petition has been filed.

When the matter came up for preliminary hearing, on express instructions from the petitioner, learned counsel for the petitioner had submitted that if the petitioner be granted six months time to clear the fish from the pond which was leased out to him, he would neither pursue the present petition nor press his main suit. On such statement, notice was issued to the respondent-Gram Panchayat in pursuance of which Mr. Sanjay Jain, Advocate, has put in appearance on behalf of the respondent-Gram Panchayat. He submits that on 10.08.2018, the pond in question has already been re-auctioned in which one Moti Lal son of Dhani Chand was the highest bidder and therefore, he has been given the lease hold rights for 08 years. It is further submitted that the aforesaid Moti Lal has also deposited with the respondent-Gram Panchayat as lease money an amount of Rs.2,50,750/- in cash and Rs.5,68,000/- by way of a cheque and it is he who presently is in possession of the pond.

The above development virtually demolishes the prayer for

interim relief being sought by the petitioner.

Even otherwise, on the pivotal of question whether the lease granted to the petitioner was for 07 or 11 years, the Appellate Court had called for the relevant record and after perusing the same, had found therein rubbing and over-writing, through which the figure “7” had been changed to figure “11”. The orders of the Trial Court, as also the Appellate Court, which are the subject matter of challenge in the present proceedings, also reveal that with regard to the afore-referred interpolation in the record of the Gram Panchayat, an inquiry was held by the Block Development and Panchayat Officer, Barara, who, in the Inquiry Report submitted by him, has categorically opined that the Panchayat record was interpolated by the petitioner in connivance with the earlier Sarpanch. Learned counsel for the petitioner could not persuade this Court to take a contrary view.

In view of the above, no merit is found in the present petition.

Dismissed.

(DEEPAK SIBAL)
JUDGE

August 21, 2018

Jyoti 1

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No