

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

Civil Revision No.6118 of 2017 (O&M)

Date of decision: May 22, 2018

Teja Singh and others

...Petitioners

Versus

Jarnail Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ravi Kant Sharma, Advocate
for the petitioners.

Mr.Rajesh Pal, Advocate
for the respondents.

INDERJIT SINGH, J.

Petitioners have filed this revision petition against respondents Jarnail Singh and Raghbir Singh under Article 227 of the Constitution of India for setting aside order dated 13.12.2016 passed by learned Civil Judge (Junior Division), Dera Bassi, vide which the application filed by the plaintiffs-petitioners under Order 39 Rule 1 and 2 CPC read with Section 151 CPC was dismissed and appeal against that order was also dismissed by learned Addl. District Judge, SAS Nagar, Mohali, vide judgment dated 21.08.2017.

Notice of motion was issued. Learned counsel for the respondents appeared and contested the petition.

I have heard learned counsel for the parties and have gone

through the record.

From the record, I find that Teja Singh and other plaintiffs filed a suit against defendants Jarnail Singh and Raghbir Singh for permanent injunction restraining the defendants their agents and representatives from interfering in the peaceful possession of the plaintiffs over the agricultural land or in any manner dispossessing the plaintiffs forcibly from the suit property along with tubewell, electric motor connection, which is in the name of plaintiff Harpal Singh comprising in khasra No.1668(5-5) as per jamabandi for the year 2012-2013. Along with the plaint, an application under Order 39 Rule 1 and 2 read with Section 151 CPC was filed for seeking relief of ad-interim injunction. The case of the plaintiffs is that they have purchased the land from Arjan Singh measuring 30 bighas 14 biswas as described in the head note of the plaint, vide sale deeds dated 24.09.1996 and 01.10.1996 and the possession was delivered to plaintiffs by Arjan Singh. As per the applicants-plaintiffs, during the partition proceedings of the total land of above said khasra numbers, a Sanad Takseem was issued by the A.C. Ist Grade Rajpura and above-said khasra numbers were allotted to Arjan Singh and after full enquiry, the plaintiffs purchased the same. It is further stated that the land was in exclusive possession of Arjan Singh. The said Sadan Takseem could not be implemented in the revenue record due to the pendency of the appeals against the order of the partition. Now, the defendants threatened the plaintiffs to leave the land of said khasra No.1668 (5-5) as they have purchased the land from LR's of Arjan Singh.

On the other hand, the case of the defendants is that they have purchased the suit land from the LR's of Arjan Singh vide sale deed dated 01.06.2016 and they are owners in possession over the suit land. It is also

submitted that from the perusal of the sale deed, it is crystal clear that legal heirs of Arjan Singh delivered the possession of khasra No.1668(4-3) to the defendants and since then, they are in possession of the same. It is also submitted that the document of partition is a waste paper as it has never been implemented nor incorporated in the revenue record.

Learned Civil Judge (Jr. Divn.), Dera Bassi, dismissed the application vide order dated 13.12.2016 by holding that no prima facie case is made out in favour of the plaintiffs and held that both the parties are co-sharers in the suit land. Aggrieved from the above-said order, an appeal was filed by the plaintiffs and learned Addl. District Judge, SAS Nagar, Mohali, vide judgment dated 21.08.2017, dismissed the appeal also.

Aggrieved from above-said order and judgment, present revision petition has been filed by the petitioners-plaintiffs.

From the record, I find that in the revenue record neither Arjun Singh was shown in exclusive possession nor present plaintiffs have been shown in exclusive possession. The possession as per the revenue record is joint of the co-owners. The plaintiffs purchased the property measuring 30 bighas 14 biswas including khasra No.1668 (5-5) but the perusal of the record and jamabandi, which has been placed on record, shows that Arjan Singh was not in exclusive possession of any khasra number. There are about 25 co-owners of the total joint khata and in the column of possession, it is written as *Makbuja Malkaan*. Further, Arjan Singh was not in exclusive possession, therefore, he cannot deliver the exclusive possession. Now, the defendants have also purchased the property from LRs of Arjan Singh, therefore, they have also become joint owners in possession in the joint khata. Admittedly, the suit land has not been partitioned. No reliance

can be placed upon Sanad Takseem because, even as per the case of the plaintiffs, this Sanad Takseem has not been implemented due to pendency of the appeals against the partition etc. and this partition has not been implemented in the revenue record.

Therefore, from the above, it is clear that both the parties are co-sharers in the joint khata. So, plaintiffs cannot ask for injunction against the co-sharers restraining them from interfering in the property. From the perusal of the record, I find that there is no prima facie case in favour of the plaintiffs nor balance of convenience lies in their favour. If temporary injunction is not granted, the plaintiffs will not suffer irreparable loss.

In view of the above discussion, I find that the findings given by both the Courts below are correct. No illegality has been committed by lower Courts. Therefore, the impugned order dated 13.12.2016 passed by learned Civil Judge (Junior Division), Dera Bassi and judgment dated 21.08.2017 passed by learned Addl. District Judge, SAS Nagar, Mohali, are correct, as per law and do not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

However, nothing stated above, will constitute opinion on merits of the case.

May 22, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No