

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.6508 of 2015 (O&M)

Date of decision:26.11.2018

William Singh Sandhu @ Diljinder Singh Sandhu ... Petitioner.

Vs.

Jagdish Varinder Singh Sandhu and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R.B.S.Chahal, Advocate
for the petitioner.

Mr. Prateek Gupta, Advocate
for respondents no.1 and 2.

Mr. Vivek Suri, Advocate
for respondent no.3.

AMIT RAWAL J.

The present revision petition, at the instance of the petitioner-plaintiff, is directed against the impugned order dated 09.09.2015 (Anexure P-8), whereby, in a civil suit no.108 dated 03.06.2010 pending at Patiala, an application filed for providing police help to implement the order dated 18.08.2010, whereby, defendants no.1 and 2 Jagdish Varinder Singh Sandhu and Mrs. Preneet Kaur, were restrained from raising the construction over the suit property, has been dismissed.

Mr. R.B.S.Chahal, learned counsel appearing on behalf of the petitioner submitted that during the pendency of the aforementioned suit, an application under Order 26 Order 9 CPC, for inspection of the suit land was

submitted which was vide order dated 08.02.2013, allowed. The Local Commissioner submitted his report dated 12.03.2013 (Annexure P-5), wherein, it was found that the construction was being carried out on the suit land. In such circumstances, the police help was inevitable as the parties cannot be permitted to violate the interim injunction with impunity without any regard and respect but the Lower Appellate Court has erroneously dismissed the application by holding that defendant no.3 -M/s Vishranti City Residents Welfare Society was impleaded (as defendant No.3) post the interim order, thus, reasoning assigned is wholly erroneous and perverse.

Per contra, Mr. Prateek Gupta and Mr. Vivek Suri, learned counsels appearing on behalf of respondents no.1 & 2 and 3 submitted that the impugned order has not dismissed the application in toto but given opportunity to the plaintiff to establish the claim by leading direct and cogent evidence for the purpose of providing the police help and thus, urged this Court for dismissal of the petition.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. R.B.S.Chahal.

The trial Court while disposing of the application vide impugned order gave the following observations:-

“However, it is made clear that during the pendency of the present application when the plaintiff would lead evidence for claiming police help, he is also directed to conclude his evidence on the main case which is one of the action plan cases

within a period of three months so that in case this Court deems it appropriate, necessary permission be sought from District Magistrate Patiala through learned District Judge, Patiala for which proper evidence to be led by the applicant is required. To come up on 21.9.2015 for evidence of plaintiff on main case as well as on the present application seeking police help.”

The revision petition is pending since 2015. This Court has not been apprised the stage of suit. If at all, in fact, the plaintiff was/is actually interested in seeking the implementation of the order, would have led the evidence in support of the averments made in the application. The litigants cannot be permitted to delay the adjudication of the suit by taking off the focus from the main suit, to applications.

I cannot remain unmindful of the fact that suit is pending adjudication since 2010, almost 08 years have elapsed.

The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

November 26, 2018

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No