

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6975 of 2015

Date of Decision: February 14, 2018

Asha Rani & another

...Petitioners

Versus

Rajwanti

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.Parminder Singh, Advocate,
for the petitioners.

Mr.Varun Jain, Advocate,
for the respondent.

AMIT RAWAL, J. (Oral)

Petitioner-defendants are in revision petition against the orders of both the Courts below, whereby the application moved by the respondent-plaintiff under Order 39 Rule 1 & 2 CPC seeking injunction order in a suit for permanent injunction restraining the defendants from raising construction, making additions or alterations, dismantling any part of the existing construction in two rooms, has been allowed by the trial Court and the appeal preferred by the petitioner-defendants has been dismissed.

Mr.Parminder Singh, learned counsel appearing on behalf of the petitioner-defendants submits that the respondent-plaintiff instituted the suit claiming right in the aforementioned property on the premise that defendant No.1 is daughter-in-law of the plaintiff and defendant No.2 is the grand son. The husband of petitioner No.1 and father of defendant No.2,

namely, Surinder Kumar died on 18.9.2008, whereas the husband of the plaintiff died on 29.9.2012, leaving behind the plaintiff as his widow. Sham Lal executed a registered Will in favour of the plaintiff and three daughters regarding the plot purchased by the husband of the plaintiff.

The defendants contested the suit on the premise that the suit was not maintainable and the Will on the basis of which the plaintiff claimed to be co-sharer was forged and fabricated. Since the respondent (mother-in-law) wanted to forcibly throw out the petitioners of their residential house, they filed a separate suit during the pendency of the suit, sought declaration and prayed for stay of the suit also, but the trial Court without noticing the aforementioned fact granted the injunction by restraining the defendants from making any additions or alteration or raising any construction upon the rooms of the house which are in possession of the petitioner-defendant No.1. The appeal filed thereafter also met with the same fate, thus, there is illegality and perversity. Under the garb of the stay order, the respondent-plaintiff is causing interference and delaying the adjudication of the suit filed in 2013.

Per contra, Mr.Varun Jain, learned counsel for the respondent-plaintiff submits that there is no illegality or perversity in the impugned orders. The suit is at the stage of plaintiff's evidence. He undertakes to conclude the trial as early as possible subject to any terms and conditions to be imposed by this Court. In case, the injunction is vacated, the whole purpose of filing the suit would be rendered useless.

I have heard the learned counsel for the parties and appraised the paper book.

Without commenting on the merits of the case, particularly

when the suit is at the stage of plaintiff's evidence, I deem it appropriate to dispose of the present petition.

Accordingly, while upholding the orders of the Courts below, I dispose of the present revision petition with a direction to the trial Court to expedite the trial of the suit by affording 4-4 effective opportunities to the parties to lead their evidence. Let this exercise be undertaken within one year.

February 14, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No