

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

CR No.928 of 2017 (O&M)

Date of decision:27.11.2018

Shaminder Singh

... Petitioner

Vs.

Kesar Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. P.S.Punia, Advocate
for the petitioner.

Mr.A.KWalia, Advocate
for the respondent.

AMIT RAWAL J.

The present revision petition is directed against the orders dated 08.08.2016 and 18.11.2016 passed by the trial Court and the Lower Appellate Court dismissing the application under Order 39 Rules 1 and 2 CPC filed alongwith suit and miscellaneous appeal.

The petitioner-plaintiff in a suit for declaration and permanent injunction alleged that defendant is the father of the plaintiff and defendant is joint owner with this brother of the suit property. However, on 05.07.2011, there was family settlement and the property was mutually partitioned in the presence of marginal witnesses. The defendant had agreed to execute and register the sale deed of half share out of his share in favour of the plaintiff and delivered the physical possession of the plot measuring 4

marlas. Even permission to raise the construction was also accorded. However, without performing the remaining part, the defendant started harassing the plaintiff and dispossessed the plaintiff and therefore, the suit aforementioned was filed alongwith ad interim injunction.

The defendant opposed the ad interim application as the plaintiff was violator of the terms and conditions of the alleged agreement, rather threatened to transfer the land to 3rd party.

Mr. P.S.Punia, learned counsel appearing on behalf of the petitioner submitted that on preponderance of the evidence and the affidavit, the trial Court did not grant the ad interim injunction and dismissed the application on 08.08.2016 and appeal preferred before the Lower Appellate Court was also dismissed.

During the course of hearing, it has been brought to the notice of this Court that suit filed in 2012 is already slated for plaintiff's evidence.

Mr. A.K.Walia, learned counsel appearing on behalf of the respondent has drawn the attention of this Court to the order dated 08.02.2017 as the Court had issued notice only on account of the fact that litigation is between father and son. The order dated 08.2.2017 reads as under:-

*“Present: Mr. P.S.Punia, Advocate
for the petitioner.*

*Learned counsel for the petitioner submits that
since instant litigation is between father and son, there are
chances of an amicable settlement.*

Notice of motion for 22.3.2017.

*Process dasti as well as through the counsel of
respondent before learned trial Court, in addition to ordinary
process.”*

Without commenting upon the merit and de-merit of the matter,
while upholding the orders under challenge, I deem it appropriate to dispose
of the petition by issuing a direction to the trial Court to expedite the trial of
the suit.

(AMIT RAWAL)
JUDGE

November 27, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No