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

**CWP No.20287 of 2018 (O&M)
Date of decision: August 23, 2018**

Major Singh and others ...Petitioners

Versus

The State of Punjab and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Kulwant Singh Boparai, Advocate,
for the petitioners.

Rakesh Kumar Jain, J. (Oral)

Counsel for the petitioner submits that one Yashbir Chand had filed a suit for possession against Jaswant Kaur and others including the land of village Giaspura. The said suit was decreed on 27.08.1968 by the First Appellate Court and the decree attained finality. Yashbir Chand is stated to have died and his rights were devolved upon his son Dilbagh Rai who has filed an execution application for taking possession in terms of the aforesaid decree. In the said execution, Dilbagh Rai suffered a statement that he would not seek execution about the land of village Giaspura till the decision of the objections filed by the petitioners. It is further submitted that Dilbagh Rai entered into an agreement to sell the land in question with Iqbal Singh on 15.04.1997. Before the sale deed pursuant to the agreement to sell dated 15.04.1997 could have been executed, the said Iqbal Singh felt that Dilbagh Rai may alienate the suit property and create third party rights, therefore, he filed a suit for permanent injunction to restrain Dilbagh Rai from alienating, mortgaging or transferring the suit property to anyone else. The said suit was decreed on 04.06.2002 and

injunction was granted. It is further submitted that Iqbal Singh has now further entered into an agreement to sell the same land with private respondents no.7 to 11, being the prospective vendee and having decree for permanent injunction dated 04.06.2002 in his favour.

The grievance of the petitioners is that the said prospective vendees of Iqbal Singh are threatening to take possession of the suit property from the petitioners forcibly, whereas the petitioners are already before the Executing Court by way of filing objections in execution of the decree dated 27.08.1968. It is submitted that the petitioners have, thus, made a prayer for the issuance of a writ in the nature of *mandamus*, directing respondents no.2 to 4 not to harass the petitioners, to interfere in their possession and further to restrain them from using force at the behest of private respondents no.7 to 11.

After hearing learned counsel for the petitioners and examining the available record, I am of the considered opinion that the present petition is totally misconceived as the remedy lies somewhere else, i.e. by filing a suit for permanent injunction to restrain respondents no.7 to 11, who are allegedly threatening to interfere in the possession of the petitioners.

Consequently, the present petition is hereby dismissed being not maintainable, though without any order as to costs.

August 23, 2018
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(Rakesh Kumar Jain)
Judge

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