

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.6636 of 2016 (O&M)
Date of Order: 11.12.2018

Naresh Kumar

..Appellant

Versus

Zile Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. N.S.Panwar, Advocate,
for the appellant.

Mr. J.S.Dahiya, Advocate,
for the respondents.

Mr. Saurabh Girdhar, AAG, Haryana

ANIL KSHETARPAL, J(Oral)

On 19.12.2016, notice of motion was issued after noticing the contentions of learned counsel for the appellant, which is extracted as under:-

“Contends that simplicitor suit is for injunction and not for title. On the basis of documentary evidence brought on record and noticed by the Courts below, Courts below found the possession of predecessor-in-interest of the plaintiff to be that of gair marusi.

He further submits that possession can always be taken in accordance with law and not through forcibly interference. In support of his contention, he has relied upon judgment rendered by Hon'ble Supreme Court in

Rame Gowda (D) LRs V/s Mr. Varadappa Naidu (D) by LRs and another” 2004(1) SCC 769.

Notice of motion for 30.05.2017.

In the meantime, status quo qua the suit property as it exists today shall be maintained.”

On 19.09.2018, Sub Division Officer (Civil), Sonapat, was directed to inspect the spot and submit a report. A status report was filed admitting that the plaintiff-appellant is in possession of the property.

Today Mr. Prashant Panwar, IAS, Sub Division Officer (Civil), Sonapat, is present in person and has stated that proceedings under the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the 'Act of 1961') as applicable to the State of Haryana have been initiated against the plaintiff-appellant.

Learned counsel for the appellant also does not dispute this position.

The property in dispute is alleged to be “Shamilat” property. It is expected that the authority before whom proceedings have been initiated under the Act of 1961, would expeditiously decide the proceedings but not later than 4 months from today.

Since, proceedings have been initiated, therefore, recourse to the law has already been adopted by the authorities. Till then, parties are directed to maintain status-quo. However, this interim protection granted is only till order is passed by the competent authority and this order shall not be used to stall the proceedings already initiated. Sub Division Officer (Civil), Sonapat, who is present in court, has been impressed upon to ensure the speedy disposal of the proceedings under the Act of 1961.

In view of the above, the regular second appeal stands disposed of accordingly.

Needless to say that the observations made by this court would not adversely effect the rights of the parties.

C.M.No.12286-C-2017

Prayer in this application is for bringing on record the legal representatives of Dimana, respondent no.4 and Mahender, respondent no.10.

For the reasons mentioned in the application, which is supported by an affidavit, the application is allowed, subject to all just exceptions. The legal representatives mentioned in paragraphs 2 and 3 of the application are brought on record for the purpose of prosecuting this appeal only.

Amended memorandum of parties filed along with the application is taken on record.

December 11, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No