

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 824 of 2019

Date of Decision: 05.02.2019

Dalip Kumar and others

.....Petitioners

Vs.

Jaswant Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Parveen Chauhan, Advocate,
for the petitioners.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioners challenge the order passed by the trial Court [Additional Civil Judge (Senior Division)], Shahabad, dated 28.01.2019, by which the petitioners' application seeking police help to enforce the order earlier passed by that Court on an application filed under Order 39 Rules 1 and 2 CPC, (dated 14.12.2018), has been dismissed.

Vide the earlier order dated 14.12.2018, an *ad interim* injunction had been issued during the pendency of the application itself, restraining the respondents herein (defendants in the suit) from alienating the suit property and from changing its nature.

Vide the order presently impugned, dated 28.01.2019, police help has been refused on the ground that the application under Order 39 Rules 1 and 2 CPC was still pending adjudication and it had also been contended on behalf of the defendants that in a civil writ petition instituted by the present petitioners challenging the acquisition of their property, they had (as contended), admitted

that the defendants in the present *lis* were owners of the suit property.

Upon query to learned counsel as regard the aforesaid observation with regard to any orders passed in the writ petition (CWP No. 1115 of 2018), he has produced in Court a copy of the said writ petition, in which it has been stated that respondent no. 1 herein (Jaswant Singh brother of the petitioners) had constructed a house in '*Khasra*' no. 23/18/1 and upon a representation having been made by him for release of his land from acquisition, such release had been ordered by the competent authority in the State.

Learned counsel further points to the fact that, however, it has also been averred in that petition by the petitioners that at the time of acquisition of the land, the father of the parties, i.e. Tulsi Ram, was alive, and therefore the property could not have been released from acquisition in favour of Jaswant Singh alone.

Notice of motion, with Mr. Jaswinder Singh Saini, Advocate, accepting notice, he already having sought to put in an appearance for the respondents, even though there is no caveat filed to this petition.

He submits that the petitioners have already received compensation qua their share of the land owned by the late father of the parties, and further, in a suit filed by respondents no. 2 to 4 herein, seeking a decree of perpetual injunction restraining the present petitioners from interfering in the construction over the suit property (as has been undertaken by the said respondents), an interim order has been passed in favour of the said respondents on an application filed under Order 39 Rules 1 and 2, though that order of the trial Court (in that *lis*), is subject matter of an appeal before the appellate court.

That fact, very fairly, is not denied by counsel for the petitioners in the present *lis*.

In view of the fact that an order of injunction has been passed in favour of the respondents in the suit instituted by them, even though that is not a ground taken by the learned trial Court in the impugned order for dismissing the application for providing the police help, I do not see how such help can be provided, which would actually violate an order passed in a different *lis* between the same parties.

Consequently, this petition is dismissed, but with liberty to the petitioners to file a fresh application seeking enforcement of the interim order dated 14.12.2018, if the interim injunction granted in the suit filed by the respondents herein is vacated by any superior Court.

Such liberty (in the present *lis*), would of course be subject to the final decision in the application filed by the petitioners in the present *lis* under Order 39 Rules 1 and 2 CPC, with the trial Court directed to ensure that the decision on the said application is not delayed beyond 10 days after the decision of the appellate Court in the appeal filed by the respondents herein against the order passed under Order 39 Rules 1 and 2 CPC in the suit instituted by them against the present petitioners.

The appellate Court in that *lis*, would also endeavour to dispose of the appeal on the next date of hearing itself, or very soon thereafter.

February 05, 2019
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes