

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

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CR-4937-2019

Date of Decision : August 21, 2019

RIYASAT ALI

.....Petitioner

VERSUS

RAJO DEVI AND OTHERS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Jai Vir Yadav, Advocate
for the petitioner.

NIRMALJIT KAUR, J. (Oral)

The prayer in the present petition is for setting aside the order dated 18.7.2017 vide which the appeal against the order dated 18.4.2017 granting interim injunction to the petitioner by Civil Judge (Jr. Divn.), Panipat was set-aside.

While praying for setting-aside the order, learned counsel for the petitioner submitted that the learned Civil Judge (Jr. Divn.) granted ad-interim relief to the petitioner in his suit for permanent injunction by taking into account the entries of the revenue record by way of copy of *khasra girdawari* showing that the petitioner-plaintiff was in cultivating possession over the suit land. It is stated that the respondents filed an appeal against the said order which has been wrongly allowed and without taking into consideration Annexure P-7 which is the entry of the *Rapat Roznamcha* handing over the possession to the present petitioner-plaintiff as also the order passed by the High Court Annexure P-8.

Learned counsel for the petitioner was heard at length.

A perusal of the order passed by Additional District Judge, Panipat shows that while setting aside the order of the Civil Judge (Jr. Divn.), Panipat granting interim injunction, it was noticed that the suit land which was allotted to the petitioner-plaintiff was set-aside by the Collector vide order dated 9.2.2017. The said order was upheld not only by the Divisional Commissioner but also by the High Court and, therefore, the petitioner had no prima facie case even to seek injunction from the Court.

This Court may have taken note of the Annexure P-7 but for the order passed by the High Court dated 7.9.2018 in CWP No.20867 of 2018 which was filed by the petitioner-plaintiff challenging the order of the Collector dated 9.2.2017 whereby the case was remanded back to the Tehsildar. While dismissing the writ petition, the learned Single Bench specifically noted that there was nothing on record to show that the predecessor of respondent-Dhan Singh was ever evicted from the land which has been leased out to him. The relevant observations are as under:-

“Nothing has been brought on record that the said Dhan Singh was ever evicted from the land which had been leased out to him and therefore prejudice would be caused to the private respondents who would have improved upon the land in their possession over the years.”

The argument with respect that the Appellate Court did not take note of Annexure P-8 which is the order dated 20.1.2015 passed by

the another learned Single Bench too has no merit. A perusal of the same shows that the said order was passed in a contempt petition filed by the petitioner-plaintiff which was simply rendered infructuous in view of Annexure P-7 which has already been dealt by this Court above and rejected in view of the order dated 7.9.2018 specifically holding that there was nothing on record to show that the respondents were ever evicted from the land.

Even otherwise, it is a case where the allotment of the petitioner stands cancelled. Hence, there does not appear to be any prima facie ground for him to hold on to the said suit land over which he has no claim in view of the allotment itself having been cancelled and the cancellation upheld by the High Court.

Dismissed accordingly.

(NIRMALJIT KAUR)
JUDGE

August 21, 2019
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No