

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

C.R. No. 6487 of 2019

DATE OF DECISION :- October 16, 2019

Jagdish and others

...Petitioners

Versus

Hans Raj and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Ajay Jain, Advocate for the petitioners.

Plaintiffs Hans Raj son of late Shri Hari Ram along with Ram Kumar son of Pat Ram, Ram Kumar son of Lalu, had brought a suit for declaration against defendants Banwari son of Jita and Banwari son of Lalu and others. In that civil suit they had impleaded several proforma defendants namely Gur Dayal (since deceased) through his LRs, Narsi, Ram Kumar etc. That civil suit was contested by defendant No. 1. Defendant No. 2 had been given up by the plaintiffs whereas defendants No. 4 to 38 were proceeded against ex-parte. That civil suit was dismissed with costs by Civil Judge (Jr. Division), Hisar vide judgment and decree dated 16.1.2018. The proforma Defendants No. 4(c to e), 19(b to g), 20, 25 to 28) had preferred an appeal before learned Additional District Judge, Hisar in which they moved an application claiming that since the appellants/proforma respondents are in possession of the suit property to the extent of respective shares, therefore, respondent No. 4 Banwari be restrained from interfering in their possession from suit land and alienate it till disposal of the appeal. That application was

resisted by respondent No. 4 Banwari. Learned Additional District and Sessions Judge, Hisar vide order dated 9.9.2019 dismissed the application seeking injunction observing that the trial Court has found that the appellants/proforma respondents had not challenged the entries in the Jamabandi (Ex.P2) and had filed an appeal on 6.9.2019. They had not contested the suit, therefore, no ground to issue any injunction against respondent No. 4 was made out. This order left the appellants aggrieved and they have filed the revision petition.

I have heard learned counsel for the revisionists besides going through the record.

At the very first instance it may be mentioned that revisionists had not chosen to appear in the trial Court and were proceeded against ex-parte. If they were aggrieved by ex-parte judgment and decree they should have approached the trial Court at the first instance seeking setting aside of that judgment and decree but they did not do so rather they challenged the said judgment and decree by way of filing an appeal in which they have moved application for temporary injunction. The First Appellate Court by giving valid reasoning had dismissed the said application. I do not find any illegality or infirmity therein much less apparent on the face of the such order. If the revisionists-appellants ultimately succeed and the contesting respondents makes any alienation during pendency of the appeal that may be hit by principal of lis-pendense and as regards taking of possession Section 144 CPC which provides that when a decree or an order is varied or reversed in any appeal, revision or other proceedings, the Court which passed the decree or order shall, on the application of any party entitled to

any benefit by way of restitution or otherwise, cause such restitution be made as will place the parties in the position which they would have occupied but for such decree or order. Thus no interference in the impugned order is called for by exercising reversional jurisdiction.

The revision petition stands dismissed.

(H.S. MADAAN)
JUDGE

October 16, 2019
p.singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No