

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-7792-2014(O&M)
Date of Decision:17.01.2020

JATINDER SINGH AND ORSPetitioners

Versus

KARTAR SINGH AND ORS ...Respondents

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Kanwaljit Singh, Sr. Advocate with
Ms. Payal Singh, Advocate, for the petitioners.

Mr. Ashwani Chopra, Sr. Advocate with
Ms. Eesha Khanna, Advocate, for the respondents.

MAHABIR SINGH SINDHU, J.

Present Revision petition has been filed by the petitioners/plaintiffs under Section 115 of Code of Civil Procedure,1908 (for short 'CPC') for setting aside the impugned judgment and decree dated 09.09.2014 passed by learned Civil Judge (Junior Division), Gurdaspur, (hereinafter referred to as 'trial Court'), whereby suit of the plaintiff/ petitioners instituted under Section 6 of Specific Relief Act, 1963, (for short 'the Act') was dismissed.

It transpires that suit of the plaintiff/ petitioners was dismissed by learned trial Court primarily on two counts:-

- i) failed to prove their possession as well as dispossession regarding the suit land; and
- ii) suit is barred by limitation having not been filed within six months of alleged dispossession;

After arguing at length, learned Senior counsel for the petitioners has realized the scope of interference under Section 115 CPC

against the impugned judgment and decree, therefore, on instructions, he wishes to withdraw the present revision with liberty to take recourse to the remedy available under law.

On the other hand, learned Senior counsel for the respondents/defendants has vehemently opposed the prayer made on behalf of the petitioners while submitting that in view of the impugned judgment and decree passed by learned trial Court, the rights of the parties have been crystallized and thus, there is no occasion to grant any liberty to the petitioners.

Heard both sides on this limited aspect of the matter.

Concededly, in view of the provisions of Sub Section 3 of Section 6 of the Act, there is a clear bar to file any appeal or review against the impugned judgment and decree. Still further, Hon'ble Supreme Court in case titled as ***Sanjay Kumar Pandey and others Vs. Gulbahar Sheikh and others (2004) 4 SCC 664***, in paragraph 4, observed as under:-

“A suit under [Section 6](#) of the Act is often called a summary suit inasmuch as the enquiry in the suit under [Section 6](#) is confined to finding out the possession and dispossession within a period of six months from the date of the institution of the suit ignoring the question of title. Sub-Section (3) of [Section 6](#) provides that no appeal shall lie from any order or decree passed in any suit instituted under this Section. No review of any such order or decree is permitted. The remedy of a person unsuccessful in a suit under [Section 6](#) of the Act is to file a regular suit establishing his title to the suit property and in the event of his succeeding he will be entitled to recover possession of the property notwithstanding the adverse decision under [Section 6](#) of the Act. Thus, as against a decision under [Section 6](#) of the Act, the

remedy of unsuccessful party is to file a suit based on title. The remedy of filing a revision is available but that is only by way of an exception; for the High Court would not interfere with a decree or order under [Section 6](#) of the Act except on a case for interference being made out within the well settled parameters of the exercise of revisional jurisdiction under Section 115 of the Code.”

In view of the above, this Court does not find any reason to deny the innocuous prayer made on behalf of the petitioners i.e. to withdraw the present revision with liberty to take recourse to the remedy available under law. Even otherwise, mere grant of liberty to the petitioners by this Court would not amount to conferring any jurisdiction upon the Court (s) below. Moreover, it is quite elementary principle of law that no Court, including the highest Court, can confer the jurisdiction upon any inferior Court on the basis of an order or direction, if that Court is not vested with the jurisdiction.

As a result thereof, revision petition is dismissed as withdrawn with liberty to the petitioners to take recourse to the remedy, if any, available under law.

The observations made above may not be construed as an expression of opinion on the merits of the case, in any manner.

[MAHABIR SINGH SINDHU]
JUDGE

January 17, 2020
rashmi

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no