

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2067-2020
Date of Decision: 22.07.2020

Baba Lakhwinder Singh

....Petitioner

Versus

Gram Panchayat of village Chohla Sahib

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ranjodh Singh Sidhu, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL).

Challenge in the present petition is to the orders passed by the Courts below, whereby an application under Order 39 Rules 1 and 2 CPC filed by the petitioner has been dismissed.

The petitioner-plaintiff filed a suit for permanent injunction restraining the defendant-Gram Panchayat from interfering in its peaceful possession and further restraining the defendant from demolishing the Nishan Sahib, Boundary Wall and Langar Hall of the suit property, situated in the area of village Chohla Sahib, Tehsil and District Tarn Taran.

Along with the said suit, the petitioner had also filed an application under Order 39 Rules 1 and 2 CPC seeking temporary injunction.

The learned trial Court, after having taken into consideration the rival contentions of the parties, dismissed the aforesaid application vide order dated 26.08.2019, observing therein that the Gram Panchayat is the true owner of the property and the presumption of truth having been attached to the revenue record, which shows the Gram Panchayat as owner of the property, no injunction could be granted in favour of the petitioner.

The appeal filed by the petitioner against the said order, was also dismissed by the learned Additional District Judge, Tarn Taran, vide order dated 02.12.2019, inter-alia, observing therein that there is no document on record showing the ownership of the plaintiff over the property in dispute. The relevant extracts from the order dated 02.12.2019 aforesaid, would read as under:-

“...But, there is no document to show that the land ever belongs to Baba Kala Mahar. There is no document of title in favour of the said Dera, namely, Baba Kala Mahar. So the plea of the plaintiff that Dera is existing for more than 110 years is not established from any document. Rather, it comes admitted on record that the land belongs to Gram Panchayat because it is the case of the plaintiff itself that the Gram Panchayat has passed a resolution to give this land to the plaintiff Dera. But no further action was taken on the alleged resolution. Ownership of property cannot be changed merely by passing a resolution. So from these facts, it is clearly made out that plaintiff is in unauthorised possession over the suit land. It has been rightly contended by the Ld.

counsel for the defendant that no injunction can be granted against the true owner i.e. the Gram Panchayat. There is no dispute to the legal proposition that a person who himself is the wrong doer, cannot be given protection of law.”

Learned counsel for the petitioner vehemently contends that both the Courts below fell in error of law while dismissing the injunction application. It is further submitted that at the time of decision of the injunction application, the Courts are not required to go into the merits of the case and the only thing which is required to be taken into consideration is if any irreparable loss is caused to the person seeking the injunction. It is yet further submitted that though the Gram Panchayat is the owner of the property, yet it had not pleaded in its reply before the trial Court as to for which purpose the suit land is required by the Gram Panchayat.

However, I do not find any merit in the contentions raised by the learned counsel for the petitioner.

Learned counsel for the petitioner could not controvert the findings recorded by the Courts below regarding the ownership of Gram Panchayat over the suit property. It is settled law that no injunction can be granted against the true owner of the property. As noticed by the learned Additional District Judge, in the order dated 2.12.2019, as per Jamabandi for the year 2015-16, the suit land comprising in Khasra No. 236 has been shown as ‘Gair Mumkin Chhappar’, and is the ownership of the Gram Panchayat.

Moreover, the basic principles guiding the grant of injunction i.e. a prima-facie case, balance of convenience and irreparable loss, are totally lacking in this case. Thus, in my considered opinion, both the Courts have rightly dismissed the injunction application filed by the petitioner.

Finding no merit in the present petition, the same is hereby dismissed.

22.07.2020
ds

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No