

In the High Court of Punjab and Haryana at Chandigarh

(Proceedings conducted through Video Conference)

CR No.2537 of 2020

Date of Decision: 24.11.2020

Gurcharan Singh

---Petitioner

versus

Jagsir Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. K.S. Chahal, Advocate
for the petitioner

Rekha Mittal, J.

Challenge in the present petition has been directed against order dated 30.10.2020 (Annexure P-1) passed by the Additional District Judge, Mansa whereby the appeal against order dated 14.08.2020 passed by Civil Judge (Sr. Division), Mansa (Annexure P-2), allowing application for grant of interim injunction, pending decision of the suit, was allowed.

The controversy involved in the present case is in respect of land measuring 48 kanal 19 marlas situated in village Khiala Khurd Tehsil and District Mansa, detailed in headnote of the petition.

Indisputably, the land was in possession of Ms. Gurdev Kaur wife of the petitioner on the basis of judgment and decree dated 28.02.2001 passed in maintenance proceedings initiated by Gurdev Kaur against the petitioner. Gurdev Kaur died on 26.02.2019. The petitioner is permanently settled at Canada and the present suit was instituted by him through his attorney.

Counsel for the petitioner would argue that Jagsir Singh-

respondent-defendant filed a suit for permanent injunction to restrain the petitioner and Darshan Singh his son from forcibly dispossessing him or alienating the suit land claiming possession on the basis of Will purported to be executed by Ms. Gurdev Kaur. The said suit was dismissed by the trial Court vide judgment dated 12.12.2019, though the appeal against said judgment is pending before the First Appellate Court. It is argued that in the suit filed by Jagsir Singh, it was held by the trial Court that on death of Gurdev Kaur, possession of the disputed land owned by the petitioner, shall revert back to him. It is vehemently argued that as plea of Jagsir Singh with regard to his possession over the suit land has been rejected by the Civil Court after the parties were permitted to adduce evidence, petitioner is entitle to secure injunction against interference in his possession of the suit land.

Counsel for the petitioner, in response to a query, would fairly inform that there is no document/revenue record in favour of the petitioner wherein he is shown to be in possession of the suit land, previously possessed by Ms. Gurdev Kaur. He has also failed to point out any materials on record as to how the petitioner recovered possession of the suit land after death of his wife Ms. Gurdev Kaur. The Court in Appeal, on detailed consideration of the materials on record, has rejected claim of the petitioner in respect of his being in possession of the suit land and entitle to seek injunction as an interim measure. I do not find any reason to interfere in the impugned order in exercise of extra ordinary jurisdiction under Article 227 of the Constitution of the India.

For the forgoing reasons, finding no merit, the petition fails and is accordingly dismissed in limine. However, nothing stated hereinbefore

shall be construed as an expression of opinion on merits of the controversy by the trial Court or in any other proceedings involving question of possession of the suit land.

(Rekha Mittal)
Judge

24.11.2020

SANGEETA

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No