

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CR-378-2021 (O&M)

Date of decision: 28.09.2021

Darshan Singh

.....Petitioner

versus

Sardoop Singh and others

.....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Arihant Jain, Advocate
for the petitioner.

Mr. S.S. Salar, Advocate
for the respondents.

(the aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court on account of restrictions due to COVID 19)

GIRISH AGNIHOTRI, J. (Oral)

On 23.02.2021, this Court had passed the following order:-

“Petitioner-Darshan Singh, stated to be aged 59 years, filed the present civil revision petition inter alia with a prayer for setting aside order dated 15.02.2021 vide which the trial Court to decide application u/o 39 Rule 1 and 2 has appointed Local Commissioner in order to ascertain the facts in suit for partition of Joint Residential House and Permanent Injunction from demolishing 107' frontal portion, along with further prayer to stay order dated 15.02.2021 and proceedings before Court below.

Notice of motion for 02.07.2021.

At this stage, learned counsel for the petitioner submits that further proceedings before the trial Court be

stayed and he is not likely to be prejudiced as he is himself the plaintiff.

In the above circumstances, till the next date of hearing, further proceedings before the trial Court shall remain stayed.”

Records of the case show that CM Nos.3080 & 3081-CII-2021 were filed and notice in the said applications was issued on 19.03.2021.

On 23.09.2021, this Court had directed that the main case would be taken up for hearing on 28.09.2021.

Learned counsel for the petitioner submits that the petitioner herein, had filed a suit as plaintiff. In the suit, *inter alia* the prayer was for partition of joint residential house of the parties to the suit comprised in 03 bighas and 18 biswas at Village Bhojowal, Tehsil Dhuri, District Sangrur.

Learned counsel for the petitioner, by making reference to the pleadings in the petition, submits that on 23.01.2021, the petitioner had filed the above suit for partition. On 03.02.2021, a written statement was filed on behalf of respondent No.1. It is then submitted that the petitioner also filed application under Order 39 Rule I, for interim injunction restraining respondent No.1 from demolishing the front portion of joint residential house. On 15.02.2021, the trial Court passed an order, wherein it was *inter alia* noticed that both the parties have also produced a statement from the village Sarpanch, which is entirely misleading and inconclusive. It is further been observed in the order that after hearing the contention of learned counsel, Court is confronted with certain factual proposition which requires to be inferred as to whether there is any street and drain as per the

site plan of defendants No.1 and 4 or is the part of property as the vacant land of joint ownership of Sardool Singh etc.

In view of the above observations, the trial Court ordered the appointment of Local Commissioner. Accordingly, a counsel from the Legal Aid Panel was appointed as Local Commissioner to ascertain the facts as directed in the order. The plaintiff was asked to deposit Rs.2,500/- and the same amount was deposited by the defendant. It has been brought to the notice of this Court that the plaintiff has not deposited the amount of Rs.2,500/- and accordingly, the Local Commissioner could not proceed further with the matter.

At this stage, learned counsel for the respondents however submits that he is ready and willing to deposit the complete amount and bear all the expenses to be born by the Local Commissioner.

Learned counsel for the petitioner at this stage, submits that in the order dated 15.02.2021, it has been observed that on non-deposit of the fee by the parties, the Court is likely to draw adverse inference. He therefore prays that there is an apprehension that the Court would draw an adverse inference.

This Court finds no infirmity in the order dated 15.02.2021. This Court also finds that the apprehension of the plaintiff-petitioner is misconceived as the case has yet to proceed further and there is no adverse order or observation made by the Court, which requires any interference by this Court.

Accordingly, the Civil Revision Petition is dismissed. Civil

Miscellaneous applications pending with the revision petition, stand disposed of accordingly.

It is made clear that nothing stated herein shall be treated to be as an observation by this Court on the merits of the case.

Ordered accordingly.

(GIRISH AGNIHOTRI)
JUDGE

28.09.2021/anju rani

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