

Sr. No.210

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

CR-568-2021 (O&M)

Date of decision: 24.11.2021

Roop Dutt and others

...Petitioners

Vs.

HSIIDC and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr.B.S.Rana, Senior Advocate with
Mr. Nayandeep Rana, Advocate,
for the petitioners.

Mr. Pritam Singh Saini, Advocate
for respondent No.1.

Mr. S.K.Sharma, Advocate,
for respondent No.4.

ARUN MONGA, J. (ORAL)

Petition herein, under Article 227 of Constitution of India is for setting aside the impugned order dated 18.01.2021 passed by learned Additional District Judge, Sonipat and order dated 01.12.2020 (Annexure P-7) passed by Learned Civil Judge (Senior Division), Sonipat, whereby an application filed by the petitioner/plaintiffs under Order 39 Rules 1 and 2 CPC has been dismissed.

2. I have heard learned counsel for the parties and gone through the case file.

3. No interference is called for in the order assailed herein, which is premised, *inter alia*, on the following reasoning of the learned trial Court:

“10. In the light of above said discussion as above made, I am of the considered view that there is no prima facie case in favour of the plaintiffs because revenue record has been consistently showing the defendants to be the owners in possession of the suit land since past 40 years without being

questioned from any quarter. Prima facie case is further not made out because even predecessors of the plaintiffs from whom the plaintiffs are alleging the succession of their rights had not challenged the revenue record during their life time. The photographs and the report of local commissioner at this stage cannot be relied upon because the defendants have placed on file contrary photographs and report of LC in their own favour. The case of the defendants is to the effect that construction of road is taking place at the spot and as per section 20A of the Specific Relief Act as per amendment of year 2018, it has been specifically provided that no injunction shall be granted by a court in a suit involving infrastructure project where granting of injunction would delay the progress of infrastructure project.

11. *Similarly as per section 41 (ha) of the Specific Relief Act (as amended in 2018), it has been specifically provided that no stay can be granted to impede or delay the progress of any infrastructure project. As per schedule attached to the Act construction of road is an infrastructure project.*

The question of challenge to revenue record and wrong entries therein is a matter of trial and cannot prima-facie accepted. Accordingly, this Court is of the opinion that there is no prima-facie case or balance of convenience in favour of the plaintiffs.

12. *In view of the foregoing discussion, stay/injunction application stands dismissed. Now case stands posted for 26.02.2021 for filing replication as well as for framing of issues.”*

4. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction vested with this court.

5. Above trial court order has been validly upheld by the appellate court, inter alia, making following observations :-

“17. Now, the plaintiffs want to protect their possession from being interfered by the defendants. In order to show a prima facie case, the plaintiffs have relied upon copy of jamabandi for the year 1964-65 which reveals that Mukhtiar Singh, Inder Sen, Jage Ram, Sarup Singh etc. to be in possession over the suit property as gairmarusi tenant which is owned by the Central Government. The rate of rent has been shown to be Rs.2600/- per annum and land has two khasra

numbers. In the copy of jamabandi for the year 1969-1970, the father of the plaintiffs along with other persons has been shown to be in possession of Khasra No.58 measuring 2 bigga 16 biswa and land measuring 336 bigga 2 biswa has been shown to be in possession of the Ex-serviceman Co-operative Society limited. It has been shown to be owned by the Central Government. The same picture has been depicted in the copy of jamabandi for the year 1989-90. Later on, this land was transferred to the Haryana Government through marketing department as per the mutation No.2676. This land has been mutated in favour of the defendant No.1-HSIDC.”

6. There is no room for interference in the aforesaid valid reasons recorded by the trial Court as well as the appellate Court, with which I am in agreement.

6. Dismissed.

24.11.2021
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/ No