

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 2297 of 2020 (O&M)

Date of Decision: 07.09.2021

Narayan Singh

... Petitioner(s)

Versus

Smt. Sunder Devi and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ajay Kumar Gupta, Advocate
for the petitioner(s).

Mr. R.A.Sheoran, Advocate
for respondent No.1 and 2.

Mr. Akshay Kumar Goel, Advocate
for respondent No.3 and 4.

Anil Kshetarpal, J.

1. The plaintiff (petitioner) assails the correctness of the orders passed by the trial Court as well as the first Appellate Court while dismissing the application under Order XXXIX Rule 1 & 2 CPC.

2. The plaintiff filed a suit for permanent injunction restraining the defendants from demolition, construction and changing the nature of the joint agricultural land.

3. It is an admitted fact that the petitioner is not in actual physical possession of any part of the joint land. The respondents, while filing an application dated 30.06.2021, have explained the factual position in para 3 thereof, which reads as under:-

“3. *That the petitioner was owner of total 2K-12M*

land out of 26K-5M. Out of total land 4K-5M land was acquired by the Haryana State Government for construction of road. Thus, after deducting his share in road, his share remained 2K-4M. Out of 2K-4M, he transferred 17M land in favour of his daughter Prem Bai and Meenaxi. Prem Bai sold her share to Manju Devi on 22.11.2019 and the petitioner did not disclose this fact in suit and intentionally not made them party and not came in this Court with clean hands”.

4. Thereafter, in para 5 of the application, which is supported by an affidavit, the respondents have made an offer that the petitioner shall be delivered the possession of his share along with the proportionate share having its front on the road. The learned counsel for the respondents have also reiterated the stand taken in the application. Para 5 of the application reads as under:-

“5. That the petitioner is claiming as co-sharer in the land in dispute. Admittedly, he is not in possession of any part of the land. It is settled law that the co-sharer can file suit for partition and in partition, he can get the possession. The suit for injunction is not maintainable against co-sharer. Due to status-quo order dated 24.9.2020 passed by this Hon’ble Court, nobody can get the suit land partitioned or made the improvement. The respondents are ready to deliver him possession of his share as per the quality of land. So that nobody can face the difficulty. The petitioner not came with clean hands and not disclosed the real facts in the suit. Thus, in

this ground alone, the ex-parte order dated 24.9.2020 is liable to be vacated”.

5. Keeping in view the aforesaid facts, the learned counsel representing the petitioner submits that he has no objection if the revision petition is disposed of in view of the stand taken by the learned counsel representing the respondents.

6. Keeping in view the aforesaid facts, the revision petition is disposed of. The respondents shall remain bound by the stand taken by them in the application, which is supported by an affidavit.

7. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

September 07, 2021

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No