

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

113

CR No. 2088 of 2021 (O & M)
Decided on: 23.9.2021

Abhey Kumar

.....**Petitioner**

Versus

Puneet Tayal

.....**Respondent**

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Binderjit Singh, Advocate, for the petitioner

Rajbir Sehrawat, J.(Oral)

This petition has been filed under Article 227 of the Constitution of India seeking quashing/setting aside the impugned order dated 27.8.2021 (Annexure P-18), passed by the District Judge, Mansa, whereby appeal preferred by the plaintiff/petitioner has been dismissed; and order dated 26.7.2021 (Annexure P-16) passed by the Additional Civil Judge (Senior Division), Mansa, whereby application (Annexure P-15), filed by the plaintiff/petitioner for grant of temporary injunction restraining the defendant/respondent from interfering in the possession of the plaintiff/petitioner and from raising any construction on any part of land owned and possession by the plaintiff/petitioner, has been dismissed.

It is submitted by counsel for the petitioner that the documents placed on record before the Courts below, as well as, arguments raised by counsel for the petitioner have not been duly considered by the Courts below. Counsel has submitted that the respondents had purchased the property in dispute from some other persons. The said persons had already lost in the earlier proceedings relating to the same property. Hence, on the face of it, the claim of the defendants is belied. Counsel has further submitted that although the Courts below had taken assistance from spot inspection by the Local Commissioner, however, his report itself is against his own earlier report. It is also submitted that the petitioner has filed objections against the report of Local Commissioner. However, even those has not been decided by the Courts below.

Therefore, the Courts below could not have the basis on the said report.

Having considered the arguments of counsel for the petitioner and having perused the case file, this Court does not find any ground to interfere with the order passed by the Courts below. Undisputedly, the claim raised by the petitioner in the present suit is relating to Khasra No. 1117/1 (Min) and the defendants claimed their property to be situated in Khasra No. 1117. Hence, it is obvious that the dispute relates to identification/demarcation of the land. The Courts below have rightly taken assistance of the Local Commissioner to give consideration to the matter at this stage. As per the Local Commissioner report, the property with the boundaries mentioned in the plaint, has not been found to be even in existence. Therefore, the Courts below have not committed any legal error in recording that the Courts did not find any prima facie case in favour of the petitioner. Moreover, the submissions of counsel for the petitioner, that the objections filed by the petitioner against the report of the Local Commissioner has not been decided by the Courts below, is not relevant at this stage. However, the petitioner would be at liberty to raise this issue before the Courts below.

Needless to say that, at present the parties are at the stage of ad-interim injunction only. Both the parties shall be at liberty to raise their respective pleas and to substantiate their claim during proceedings of suit; by leading appropriate evidence in that regard.

In view of the above, finding no merit in the present petition, the same is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

23.9.2021

Ashwani

Speaking/Non-speaking : Yes/No
Reportable/Reasoned : Yes/No