

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 2235 of 2021 (O&M)

Date of decision : 5.10.2021

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Dial Chand @ Gurdial Chand and others

.....Petitioners

vs.

Kamal Singh and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr.Vishal Sharma (Vasudeva), Advocate for the petitioners.

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H. S. Madaan, J.

Case taken up through video conferencing.

Briefly stated, facts of the case are that, plaintiffs – Kamal Singh and Chaman Lal, both sons of Charanji Lal, residents of Village and P.O. Jindwari (Saini Majra), Tehsil Nangal, District Rupnagar, had brought a suit for grant of permanent injunction against defendants Gurdial Chand, Prem Singh and Narinder Singh, residents of that very village, for restraining them from interfering by way of changing, diverting the flow of water of drain towards the property of the plaintiffs, situated within limits of village Jindwari, Tehsil Nangal, District Rupnagar.

On notice, both the defendants appeared and filed written statement. The plaintiffs had moved an application under Order 39 Rules 1 and 2 CPC, for grant of ad interim injunction, which was

resisted by the defendants. Vide order dated 13.8.2021, the trial Court of Civil Judge (Junior Division), Nangal, dismissed that application. The defendants had filed an application under Order 7 Rule 11 CPC for rejection of plaint, which had been dismissed earlier by the trial Court vide order dated 2.8.2021. Feeling aggrieved by such orders, the defendants have knocked at the door of this Court, by way of filing the present revision petition.

I have heard learned counsel for the revisionists, besides going through the record.

The operative part of the impugned order runs as follows:-

“4. Arguments heard. By this present application, applicant/defendant has sought rejection of plaint on ground of cause of action, maintainability, jurisdiction of civil court. In this regard, instant suit is filed seeking relief of permanent injunction restraining defendants / applicants from changing/diverting the flow of water of drains towards property of plaintiff as detailed in headnote of plaint. Thus, main dispute is with regard to change of flow of water in drains. Now, plaintiffs have filed the present suit alleging connivance of defendants/applicants with members of Gram Panchayat for diverting flow of sullage water of their houses against natural flow of water, to a Choe which gets blocked at a some distance,

which is causing irreparable loss and injury to property belonging to plaintiffs/respondents due to over flow of water from Choe. Instant suit is filed against defendant/applicant because, in drains constructed by gram panchayat as alleged, defendants/applicants are discharging sullage water of their houses. Thus, it cannot be said that plaintiffs/respondents do not have cause of action against applicants/defendants. Moreover, any person having apprehension that any property in dispute is in danger of being wasted, damaged or alienated by any party, can file suit seeking relief of injunction to restrain such act damaging his property or for prevention of such damage. Further, so far as question of jurisdiction is concerned, this court is of view that matter in dispute does not pertain to question of title of property. Same is with regard to damage to property which can only be decided at later stage, after evidence is led by both parties. Furthermore, in the Para No.8, the plaintiff has pleaded cause of action for filing the present suit against applicants/defendants. Thus, no plausible grounds are made out to allow present application. As such, present application stands dismissed and

accordingly disposed of. However, any observation made herein shall have no bearing on the final outcome of the suit which is upon merits.”

I find the order to be quite detailed, well reasoned and not suffering from any illegality or infirmity, much less, the order being arbitrary or having been passed against the settled legal position.

No interference with the said order, by way of exercising the revisional jurisdiction of this Court under Article 227 of the Constitution of India, is called for. The revision petition is found to be without any merit and is dismissed accordingly.

5.10.2021
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No