

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 2591 of 2020 (O&M)
Date of Decision:15.02.2021

Charna @ Charan Singh and anotherPetitioners

Versus

Gurjit Kaur and others Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. D.K.Saini, Advocate
for the petitioners.

Mr. L.S.Sidhu, Advocate
for respondent no.1.

None for respondents no.2 to 6.

LISA GILL, J(Oral).

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Prayer in this revision petition is for setting aside order dated 27.11.2020, Annexure P-5, passed by the learned Additional District Judge, Rupnagar, whereby order dated 22.10.2019, Annexure P-4, passed by the learned Civil Judge (Jr. Division), Sri Anandpur Sahib, has been set aside.

Learned Civil Judge (Jr. Division), Sri Anandpur Sahib vide order dated 22.10.2019, while disposing of an application under Order 39 Rule 1 and 2 CPC, moved by the plaintiffs i.e., present petitioners and respondent no.7, directed *status quo* to be maintained regarding construction over the suit property till final decision of the suit. Suit for partition had been filed by the plaintiffs along with application under Order 39 Rule 1 and 2 CPC.

Appeal preferred by respondent no.1 was allowed by the learned Additional District Judge, Rupnagar, vide impugned order dated

27.11.2020, Annexure P-5.

Aggrieved therefrom, two of the three plaintiffs i.e., present petitioners, have filed this revision petition.

Learned counsel for the petitioner submits that respondent no.1 is trying to change the nature of the suit property, therefore learned trial Court has rightly directed *status quo* regarding construction to be maintained by the parties till final decision of the suit for partition preferred by the plaintiffs. An irreparable loss, it is submitted shall be caused to the petitioners, in case, said respondent is permitted to raise construction over the property in dispute. It is thus prayed that the present revision petition be allowed.

Learned counsel for respondent no.1, *per contra* argues that interim injunction had been incorrectly granted by the learned trial Court against the co-sharer. Moreover, the plaintiffs themselves had raised construction of residential house at an earlier point of time. It is thus prayed that the present revision petition be dismissed.

I have heard learned counsel for the parties and have gone through the file with their assistance.

Petitioners along with respondent no.7 admittedly preferred a suit seeking partition of the property in question. Learned Additional District Judge, Rupnagar, while setting aside order dated 22.10.2019, Annexure P-4, passed by the learned Civil Judge (Jr. Division), Sri Anandpur Sahib, has specifically observed that the plaintiffs are in possession of part of the joint property and that the plaintiffs themselves had raised construction of residential house in parcels of joint property at an earlier point of time without rumblings of partition of joint property. It is further observed that the only site plan available on record, depicts alleged possession of

respondent no.1 over middle portion of the disputed joint property and no *prima facie* case of alleged encroachment beyond the portion in possession of the said respondent, is held to be made out.

Learned counsel for the petitioners is unable to point out anything contrary to the said observations, at this stage. It is a matter of record that the site plan submitted by respondent no.1 before the learned trial Court, reveals construction raised by various joint owners/co-owners over different parcels of property in their possession. Moreover, learned Additional District Judge, Rupnagar, has categorically held that raising of construction, if any, by respondent no.1 over the portion of suit property in her possession, shall be subject to result of final partition in due course. It is obvious that in the factual matrix of the case, learned Additional District Judge, Rupnagar, has rightly set aside order dated 22.10.2019, Annexure P-4, passed by the learned Civil Judge (Jr. Division), Sri Anandpur Sahib.

Learned counsel for the petitioners is unable to point out any illegality, infirmity or perversity in the impugned order dated 27.11.2020, Annexure P-5, passed by the learned Additional District Judge, Rupnagar which calls for interference by this Court in exercise of revisional jurisdiction.

Revision petition is accordingly dismissed.

15.02.2021
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.