

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6915 of 2018 (O&M)
Date of decision: 18.11.2022

Gurlal Singh Danewalia

..Petitioner

Versus

Daljit Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Sharma (Kanav), Advocate
for the petitioner.

Mr. Pawan Kumar, Sr. Advocate, with
Ms. Vidushi Kumar, Advocate,
Mr. Surya Kumar, Advocate
for respondent no.1.

ANIL KSHETARPAL, J(Oral)

1. Through this revision petition, the plaintiff, in a suit for grant of decree of declaration, assails the correctness of the order passed by the trial court on 11.09.2018, while permitting defendant no.1 to re-examine Sh. Vishal Garg, Sub Divisional Engineer as his witness. In order to understand the nature of the suit, the caption of the plaint is extracted as under:-

“Suit for declaration to the effect that the plaintiff is exclusive owner of property measuring 2389 sq. yards bearing House NO.B-3 (MC No.71 CS), bounded as under:-

East: House of G.S.Romana

West: Road

North: Road

South: Kothi No.B-4 of Harwinder Sg., situated in Civil Station/Civil Lines, Bathinda, along with construction made thereon and alleged transfer/conveyance deed bearing registration No.5757 dated 17.02.1997, alleged to have been executed by defendant no.3 in favour of defendant no.1 for sale price of Rs.6,570.00 is illegal, null, void, ineffective, inoperative, without any right, authority, competence, jurisdiction, power, authority and not binding as against the rights of plaintiffs, in any manner, nor confer any title in favour of defendant no.1 and concerned records of defendants no.2 to 5, qua the suit property, as well as revenue and municipal pertaining to the same, are liable to be corrected accordingly;

AND

Suit for mandatory injunction for issuance of direction to defendant no.1 to deliver/restore/return/handover the vacant possession of above said property to the plaintiff, with immediate effect;

AND

Suit for permanent injunction restraining the defendant no.1 from alienating any portion of above said property/house measuring 2389 sq. yards, bearing House No.B-3 (MC No.71 CS), situated in Civil Station Civil Lines, Bathinda, illegally, forcibly or on the basis of

above said conveyance deed no. 5757 dated 17.02.1997, in favour of any person, by way of sale, mortgage, gift, exchange, lease or raising charge or encumbrance thereon, in any manner, in favour of any other person, as he has got no right, title or concern whatsoever, as licence granted to defendant no.1 has already been revoked/terminated orally in first week of October, 2014, by plaintiff and also confirmed vide regd. Legal notice dated 19.12.2014 and for restraining the defendant no.1 from raising any construction and also demolishing any construction already existing in the suit land and thereby changing the nature of the same;

AND

Suit for recovery of Rs.1,50,000.00 against defendant no.1, on account of mesne profits, for unauthorized use and occupation of the House No.B-3 (MC No.71) situated in Civil Station/Civil Lines, Bathinda, for the period w.e.f. October 2014 i.e. from the date of termination of licence, to the date of filing of the suit, along with interest thereon @ 18% per annum; with further prayer for issuance of direction to the defendant no.1 to continuing paying the same, even during the pendency of the suit and till the date of vacation and handing over of actual vacant possession of the suit property, fully detailed above, to the plaintiff.”

2.

After the plaintiff had concluded his evidence, the case was

adjourned for evidence of defendant no.1. While filing the list of witnesses, he had disclosed that he intends to examine Sh. Vishal Garg, Sub Divisional Engineer. However, when the Bar Association had decided to abstain from appearing in Court, defendant no.2 to 5 examined the same official as their own witness. The plaintiff did not cross-examine Sh. Vishal Garg, Sub Divisional Engineer. Defendant no.1, on coming to know of this fact, filed an application for permission to examine Sh. Vishal Garg, Sub Divisional Engineer, Provincial Division No.1, P.W.D B &R, as his witness, which has been allowed. The trial court has noticed that defendant no.1 intends to examine the said witness in order to produce and prove on record some valuable documents. Assailing the correctness of such order, the present revision petition has been filed.

3. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

4. The learned counsel representing the petitioner contends that a witness, who has already been examined, cannot be re-examined.

5. In the Court's considered view, it is not the case of re-examination of a witness. Defendant no.2 to 5 examined the aforesaid witness when the case was only fixed for evidence of defendant no.1. Moreover, his deposition was recorded when the members of the local Bar Association had given a call to abstain from work. Furthermore, defendant no.1 had already included the name of the aforesaid witness in the list of witnesses given by him. Essentially, the rules of procedure are the handmaids of justice. The trial court can regulate the procedure in accordance with the facts and circumstances of the case in the interest of justice.

6. Keeping in view the aforesaid facts, this court does not consider it a fit case to interfere under Article 227 of the Constitution of India.
7. Dismissed.
8. All the pending miscellaneous applications, if any, are also disposed of.

November 18, 2022
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No