

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

CRM-M-53732-2018 (O&M)  
Reserved on : 16.09.2022  
Date of Decision: 22.09.2022

Parvinder Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. Raman Mohinder Sharma, Advocate,  
for the petitioners.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. Vikas Mehsempuri, Advocate, for respondent No.2.

**HARNARESH SINGH GILL, J.**

The petitioners seek quashing of the order dated 31.10.2017 (P.6) passed by the Sub Divisional Magistrate Patiala, whereby while dropping the proceedings under Section 145 Cr.P.C., the possession was ordered to be handed over to respondent No.2-Gurbax Singh. Under challenge is also the order dated 06.09.2018 (P.7) passed by the learned Addl. Sessions Judge, whereby, revision against the order dated 31.10.2017, was dismissed.

On an application filed by respondent No.2-Gurbax Singh, with the averments that vide sale deed dated 21.07.2014, he had purchased from Bhupinder Singh, land measuring 5 Bigha 13 Biswa situated at Village Balipur Jhambo, Tehsil and District Patiala; that at the time of purchase of the said land,

possession was handed over to him and even mutation was also sanctioned on 28.08.2014 and the relevant entries in the revenue records were made but when he went to cultivating the land, then Ranjit Singh son of Bhupinder Singh and Parwinder Singh son of Ranjit Singh, did not allow him to do so. In the said application, the calendera proceedings were initiated and on 20.05.2015, Naib Tehsildar Patiala, was appointed as Receiver. Ultimately, vide order dated 31.10.2017 passed by the Sub Divisional Magistrate, Patiala, after taking into consideration the pleadings of the parties; evidence and material on record and the fact that possession of respondent No.2-Gurbax Singh, was also accepted by the Civil Court, the Receiver, so appointed, was directed to hand over possession of the land to respondent No.2-Gurbax Singh.

The petitioners unsuccessfully challenged the said order before the learned Sessions Court. While dismissing the revision petition filed by the petitioners, the learned Additional Sessions Judge, vide order dated 06.09.2018 took into consideration that the proceedings under Section 145 Cr.P.C., had been initiated prior to filing of the civil suit and the petitioners, with a view to taking benefit of the interim injunction passed in their favour, did not challenge the proceedings under Section 145 Cr.P.C.

Still aggrieved, the petitioners have preferred the present petition.

Learned counsel for the petitioners would vehemently argue that throughout the petitioners have been claiming their

possession over the land measuring 5 Bigha 13 Biswa situated at village Balipur Jhambo, Tehsil and District Patiala; that the property being Joint Hindu Family Property, the proceedings under Section 145 Cr.P.C., ought to have been decided in favour of the petitioners; that in the civil suit filed by petitioner No.1, vide order dated 13.02.2015 passed by the Civil Judge (Junior Division), Patiala, interim injunction was granted, which clearly proves that petitioner No.1 had been in possession of the suit property and, thus, while referring to the judgment of the Hon'ble Apex Court in Ranbir Singh Vs. Dalbir Singh, 2002(2) RCR (Criminal) 275, it is argued that the possession of the property on the date of preliminary order is to be seen and if it is so done, then petitioner No.1 being in possession of the property, the proceedings under Section 145 Cr.P.C., ought to have been decided in favour of the petitioners.

It is further submitted that impugned orders have been passed in utter violation of the law laid down in the aforesaid judgment by the Hon'ble Apex Court, and hence, the same are liable to be quashed.

On the other hand, learned counsel for respondent No.2, vehemently argues that the petitioners have not approached this Court with clean hands, inasmuch as, they have concealed the material facts from this Court. It is submitted that the land in question was purchased by respondent No.2 from Bhupinder Singh on 21.07.2014, but when Ranjit Singh and his son Parvinder Singh (petitioners herein), have tried hindering the possession of respondent No.2,

he moved the police on 02.02.2015 and accordingly, on the recommendations of the Police, proceedings under Section 145 Cr.P.C. were initiated and on 20.05.2015, Naib Tehsildar Patiala, was appointed as Receiver. It is further submitted that in the meantime, petitioner No.1 had filed a Civil Suit for declaration and permanent injunction, regarding the same very land, before the Civil Court; that along with the said suit, petitioner No.1 had also filed an application for temporary injunction, which was granted in favour of petitioner No.1 on 13.02.2015, but after the defendants therein had entered appearance, the Civil Judge (Junior Division), Patiala, vide order dated 21.10.2017, had dismissed the said application observing therein that petitioner No.1 had failed to prove his possession over the land in question; that later on vide order dated 18.01.2019 passed by the Civil Judge (Junior Division), Patiala, the said suit was dismissed in default and that application for restoration of the suit filed by petitioner No.1 was dismissed by Civil Judge (Junior Division), Patiala, on 01.02.2020.

Still further, it is submitted that prior to the said proceedings, petitioner No.1 had also filed a Civil Suit in 2008 against Bhupinder Singh and Ranjit Singh for declaration and permanent injunction and in the alternative for joint possession; that the said civil suit was partly decreed vide judgment and decree dated 12.02.2015, but in appeal filed by Bhupinder Singh-defendant No.1, the learned Additional District Judge, vide judgment and decree dated 03.05.2016 set aside judgment and decree passed by the trial Court, and dismissed the suit in

toto and even Regular Second Appeal No. 5538-2016 filed by petitioner No.1 was dismissed by this Court on 30.04.2019.

It is thus, contended that all the said material facts have been concealed and the petitioners have even wrongly obtained the interim order dated 29.01.2019 from the Coordinate Bench of this Court, by solely relying upon the judgment in Ranbir Singh's case (supra).

It is, is further contended that the impugned orders are in connection and as a consequential follow up the mandate in the civil suit and therefore, the petitioners are not entitled to any indulgence.

Still further, while relying upon the judgment of the Hon'ble Apex Court in P. Swaroopa Rani Vs. M. Hari Naryana @ Hari Babu, 2008(2) RCR (Criminal) 492, it is submitted that finding of the Civil Court is binding upon the Criminal Court and once the Civil Court, held that petitioner No.1 have failed to prove his possession over the land in question, the possession thereof was rightly ordered to be handed over to respondent No.2.

The learned State counsel, while towing the line of the counsel for respondent No.2, points out that the revenue authorities are bound by the findings recorded by the Civil Court and once, the finding of possession has gone against the petitioner, there is no merit in the present petition and the same is liable to be dismissed.

I have heard learned counsel for the parties and have gone through the impugned orders along with the relevant documents placed on record, during the course of hearing.

The petitioners allege their possession over the land in question. In this regard, from the factual matrix, it would be clear that Bhupinder Singh is grandfather of petitioner No.1. Said Bhupinder Singh had sold land in question to respondent No.2-Gurbax Singh, vide sale deed 21.07.2014. The proceedings under Section 145 Cr.P.C., were initiated at the instance of said Gurbax Singh and not the petitioners. It is conceded fact on record that the petitioners at no point of time did lay challenge to the proceedings under Section 145 Cr.P.C. The dismissal of the Civil Suit filed by petitioner No.1 in the year 2008 against his grandfather and father, has attained finality upto this Court with the dismissal of the RSA.

As noticed above, in the said suit, the trial Court had partly allowed the suit, but in appeal, the appellate Court, set aside the judgment and decree passed by the trial Court and dismissed the suit filed by petitioner No.1, inter-alia, observing as under:-

“11. So far as the learned trial Court has granted the injunction in favour of the respondent-plaintiff on the ground that in his cross-examination, the appellant-defendant has stated that Ranjit Singh and Parvinder Singh are jointly tilling the agricultural land. There is nothing on the file that Ranjit Singh and Parvinder Singh are

tilling the suit property. Moreover, the respondent-plaintiff has to stand on his own legs and cannot get the benefit in the weakness of the case of the appellant-defendant. The respondent-plaintiff has to prove on the file his possession over the suit property. The documents Ex.P1 and Ex.P2 produced by the respondent-plaintiff shows the possession of Bhupinder Singh. Manjit Kaur mother of the respondent-plaintiff has also deposed in her cross-examination that she does not know whether Bhupinder Singh is in possession of the property shown in Ex.P1. The ownership of Bhupinder Singh is also admitted on the file. She also deposed that till now they have not filed any application for correction of Khasra girdawaris. As such, this Court is of the considered view that the finding of the learned Trial Court qua the relief of permanent injunction is erroneous in law and wrong on facts and consequently the same is liable to be set aside. As such, in view of the pleadings oral as well as documentary evidence on the file, this Court is of the considered view that the plaintiff is not entitled for any relief of permanent injunction as claimed by him. I have also guided myself with the ratio of judgments cited by the learned counsel for the respondent-plaintiff and the proposition of law in these citations are not disputed, but, the same are not applicable to the case in hand and as such distinguishable.”

The said findings were upheld by the learned Single Judge of this Court, while dismissing the Regular Second Appeal vide order dated 30.04.2019.

In the subsequent suit, though petitioner No.1 was able to obtain an ex-parte temporary injunction, yet the same was vacated later on with the very dismissal of the application under Order 39 Rule 1 and 2 CPC, holding that on the basis of documents placed on record, prima-facie, it seemed that petitioner No.1 was not in possession of the land. The said suit was dismissed in default vide order dated 18.01.2019 passed by the Civil Judge (Junior Division), Patiala. Petitioner No.1 had sought restoration of the suit, but vide order dated 01.02.2020 passed by the Civil Judge (Junior Division), Patiala, the application seeking restoration was dismissed on the ground of it being barred by limitation.

Learned counsel for the petitioners is unable to show this Court any challenge to the order dated 01.02.2020, showing any relief in their favour. He is also unable to point out whether the findings in the earlier civil suit, which have attained finality upto this Court, have been varied/modified or set aside in SLP by the Apex Court. Thus, from all the attending circumstances and documents on record, it appears that the said findings have attained finality.

This clearly establishes that respondent No.2-Gurbax Singh, was in possession of the land in question, after the same was sold to him by Bhupinder Singh.

Now coming to the impugned orders, it is settled law that the proceedings under Section 145 Cr.P.C. are only in aid to the maintenance of law and order. However, the said proceedings are always subject to the determinations of the rights, title or interest of the parties in the civil proceedings. In this case, it stands established on record that petitioner No.1 was not in possession of the land in question. The judgment in Ranbir Singh's case (supra), is not applicable to the facts of the present case. That being the situation, no fault could be found with the impugned orders passed.

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

22.09.2022  
ds

**(HARNARESH SINGH GILL)**  
**JUDGE**

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |