

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

CR-5388-2022 (O&M)

Date of decision : 07.12.2022

Manohar Lal

... Petitioner(s)

Versus

Dipanshu & Others

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. B.S. Tewatia, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

The present revision petition under Article 227 of the Constitution of India has been filed for setting aside the orders dated 17.11.2021 (Annexure P-4) and 29.09.2022 (Annexure P-5) dismissing the application filed by the plaintiff-petitioner under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (CPC).

The brief facts relevant to the present *lis* are that the plaintiff-petitioner filed a suit for declaration and permanent injunction wherein the following prayers were made :

“I. That a decree for declaration to the effect that the impugned sale deed dated 15.07.1996 bearing its Vasika No.2203 and its subsequent revenue records are wrong, illegal, forged, null and void and are not binding upon the rights of the plaintiff and do not confer any title upon the defendants and the impugned sale deed is liable to be set aside and the name of predecessors of the defendants namely Tirath Dass is liable to be deleted

from the records of right and the name of plaintiff and his mother and sisters as mentioned above are to be incorporated in the records of rights as owners in possession of the suit land mention in para no. 1 of the plaint.

II. Further a decree for permanent injunction restraining the defendants from interfering into the peaceful and lawful possession of the plaintiff over the suit land and from alienating the suit land to any one or creating any type of charge over the same by way of sale, lease, lien, mortgage, gift etc. may kindly be passed in favour of the plaintiffs and against the defendants with costs of the suit.

III. Or any other relief which this hon'ble court deems fit and proper may kindly be awarded to the plaintiffs and against the defendants with costs."

Along with the plaint, an application for injunction was also filed under Order 39 Rules 1 and 2 CPC. In reply to the injunction application, it was stated that the defendant-respondents were absolute owners in possession of the suit land. The Trial Court after hearing the parties directed the defendant-respondents not to sell or alienate the suit property by creating third party interest and further directed the defendant-respondents that in case they wished to alienate the same, they would have to mention the factum of the pendency of the suit in the conveyance deed under intimation to the Court. Aggrieved by the said order, an appeal was preferred which was dismissed vide order dated 29.09.2022. Hence, the present revision petition.

Learned counsel for the plaintiff-petitioner would contend that

the plaintiff-petitioner is in possession of the suit property and hence both

the Courts below have erred in not granting *ad interim* injunction as prayed for.

Heard.

A perusal of the impugned orders passed by the Courts below reveal that *jamabandi* placed on the record as far back as of 2008-09 showed the predecessor-in-interest of the defendant-respondents in possession over the suit property being owner of the same vide sale deed dated 15.07.1996. It has been noticed in the order passed by the Additional District Judge dated 29.09.2022 that there was no document on the record to rebut the revenue entries showing the predecessor-in-interest of the defendant-respondents in possession of the suit property. Even today learned counsel for the plaintiff-petitioner is unable to show a single document depicting his possession over the suit property.

In view of the above, I do not find any illegality or infirmity in the orders passed by the Courts below. The present revision petition being devoid of any merit is, accordingly, dismissed. Pending applications, if any, also stand disposed off.

It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

07.12.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO