

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIAGRH

C.R.No. 441 of 2020 (O&M).

Reserved On:29.08.2023

Decided on:05.09.2023

Rati Ram and others

...Petitioners

Versus

M/s Robin Software LLP and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Shailendra Jain, Sr. Advocate, with
Ms. Navneet Kaur, Advocate
for the petitioners/applicants**

**Mr. Amit Jain, Sr. Advocate, with
Mr. Amit Jain, Advocate
Mr. Parmanand Yadav, Advocate
for the respondents.**

ANIL KSHETARPAL, J.

1. Through this revision petition under Article 227 of the Constitution of India, the petitioners (defendants in the pending suit) pray for setting aside order dated 07.08.2019, passed by the Court of first instance while deciding an application under Order 39 Rule 1 & 2 of the Code of Civil Procedure, 1908, which in appeal has been affirmed by the First Appellate Court vide order dated 20.09.2019.

2. Both the courts have found that the plaintiffs have a prima-facie case in their favour and if they are not granted injunction they shall suffer irreparable loss and injury which cannot be compensated later on. The courts have also found that the balance of convenience as well lies in favour

of the plaintiffs. Thus the courts have restrained the defendants from interfering in the peaceful possession and enjoyment of the suit property of the plaintiffs.

3. In order to comprehend the controversy involved in the present revision petition, some relevant facts, in brief, are required to be noticed.

4. Plaintiff no.1 claims to be the owner in possession of the land measuring 5 bighas 10 biswas 8 biswansis on the basis of a registered sale deed dated 29.06.2006, on the payment of sale consideration amounting to Rs.2,12,87,500/-. Plaintiff no.2 claims to be owner in possession of the land measuring 7 bighas 12 biswas vide registered sale deed on payment of sale consideration of Rs.9,70,000,00/-. Plaintiff no.3 claims to be owner of 9 biswas 9 biswansis on the basis of the registered exchange deed dated 18.04.2007, from Sh.Nathu Ram. It is the case of the plaintiffs that they have entered into a collaboration agreement dated 23.09.2006, with M/s EMAR MGF Land Limited to develop a Residential Group Housing Project and after obtaining license from Director, Town and Country Planning, Haryana, Residential Group Housing Project has already been completed and the allottees are now residing therein. The plaintiffs claim that the defendants who are the residents of village Shikohpur are interfering in their peaceful possession.

5. On the other hand, it is the case of the defendants (petitioners herein) that they are in the peaceful possession of the property from the time of their ancestors on a yearly lease money of Rs.3/- per bigha per year and the plaintiffs are intentionally trying to interfere in their possession.

6. It has come on record that the defendants filed two previous suits. The first suit was filed by Sh. Ratti Ram and others against Neemrana

Developers Pvt. Ltd. However, they failed to get any injunction order. The second suit was filed by Sh. Virender Yadav and others, who are children of Sh. Ram Chander and Sh. Ratti Ram against the plaintiffs. In para 7 of the aforesaid plaint the petitioners herein who were plaintiffs in the aforesaid suit have asserted as under:-

“7. That the defendants and its employees in collusion with the local authority and police, have threatened to interfere in the peaceful possession of the plaintiffs about one month ago, for which they have got no right, title to do so. The plaintiffs strongly resisted the illegal action of the defendants. The suit land comprising khasra no.767 is surrounded by other khasra numbers and the said khasra numbers as shown in the attached aksh shijra is also claimed to have been purchased/acquired by the defendants company and in the garb of the fact that the khasra no.767 is surrounded by other khasra numbers, the defendants, its employees and agents have threatened and tried to block the rasta of the plaintiffs for ingress and egress to their land comprising khasra no.767, as the defendants intend to start development activities in their land, which is situated around the khasra no.767, which is owned and possessed by the plaintiffs. The plaintiffs strongly protested the illegal action of the

defendants and after protest made by the plaintiffs, the officers of the defendants have negotiated with the plaintiffs in the presence of respectables of the village on 21.04.2019 and assured the plaintiffs that after development of the site, 50% of the developed project, as would be developed in khasra no.767 or equivalent to the area of khasra no.767 would be delivered to the plaintiffs after completion by asserting that their entire project would be failed, as khasra no.767 was in the middle of the other khasra numbers, which have been claimed to be purchased by the defendants. They agreed and assured that an agreement in this regard would be executed between the plaintiffs and defendants within one month in the presence of respectables of the village. The defendants also requested that some earth is likely to be dug from part of the suit land and other land claimed to be owned by the defendants. The plaintiffs agreed to the assurance given by the defendants and the defendants have dug some earth from part of the suit land and other khasra numbers.”

7. It has also come on record that the petitioners on 17.03.1999, suffered a statement during the consolidation of holdings in the village that the entry in the name of their father Yad Ram is wrong and they have no

concern with the same. It was stated that the entry in the khasra girdwari be changed in favour of Shamlat Patti Kushla.

8. As per the consistent entries in khasra girdwaries, it has come on record that Group Housing Apartments have already been constructed.

9. The learned counsel representing the petitioners has filed brief notes of facts and submissions. He has tried to impress upon the court to hold that the proceedings recorded at the time of consolidation of holdings in the year 1999 are illegal and the injunction order granted in favour of the plaintiffs should be set aside. The learned counsel has attempted to project that the petitioners have never surrendered possession or tenancy rights and in fact, they continued to be in possession of the property without any interference.

10. On the other hand the learned counsel representing the respondents has submitted that the petitioners are no longer in possession and the entry of possession in favour of Sh. Yad Ram is erroneous because he died in the year 1993. He further submits that the plaintiffs are in possession of the houses constructed on the property through the allottees and therefore, the revision petition should be dismissed.

11. This court has considered the submissions while analyzing and evaluating the arguments of the learned counsel representing the parties.

12. From the reading of the assertions made in the previous plaint filed by the petitioners, it is evident that the plaintiffs have been developing the land. The aforesaid suit was filed by the petitioners on 24.05.2019. It is evident from the careful reading of para 7 of the plaint that the respondents have already started the development work. The land in dispute is no longer an agricultural land. Moreover, in the year 1999, the plaintiffs (developers)

were not in the picture. The statement recorded in the proceedings for the consolidation of holdings is a part of the official record which carries presumption of correctness unless rebutted. At this stage, the court is only required to see the prima-facie case.

13. The petitioners or their predecessors have allegedly thumb marked the aforesaid proceedings admitting that the entry of possession in favour of their predecessors in interest is wrong. In such circumstances, it would not be appropriate for this court to interfere with the concurrent orders passed by the court.

14. Hence, finding no merit, the revision petition is dismissed.

15. All the pending miscellaneous applications, if any, are also disposed of.

05th September, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO