

205 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CR-302-2023

DATE OF DECISION: 31.08.2023

JAHIR ABBAS AND OTHERS

...PETITIONERS

V/S

PANKAJ KUMAR BANSAL AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Ms. Aashna Aggarwal, Advocate
 for the petitioners.

 Mr. Parminder Singh, Advocate
 for the respondents.

GURBIR SINGH J. (ORAL)

Prayer in the present petition is for setting aside the order dated 03.01.2023 (Annexure P-16) passed by learned Additional Civil Judge (Senior Division), Indri, District Karnal, whereby, an application (Annexure P-11), filed by the plaintiffs/petitioners under Section 151 CPC, for producing documents by way of additional evidence, has been dismissed.

2. A Co-ordinate Bench of this Court, at the time of issuance of the notice of motion, restricted the same with regard to additional evidence of *girdawari* of the *kharif* crop for the year 2022. The said order dated 17.01.2023 reads as under:

“Learned Senior counsel appearing for the petitioners submits that though, there were number of documents, which were sought to be produced by way of additional evidence but the girdawari of Kharif crop for the year 2022, which is a per se

admissible document should have been allowed to be taken on record as the same will not cause prejudice to any of the party and the same can be taken without there being any evidence to be led qua the said document.

Notice of motion for 30.01.2023 only qua the additional evidence with regard to the girdawari of the kharif crop for the year 2022 which has come in existence during the pendency of the civil suit and much after the leading of evidence by the plaintiffs, which is being relied to claim possession.

Process dasti.

Petitioners are also permitted to serve the respondents- defendants additionally through their counsel in the trial Court.

In case of non-service of the respondents-defendants by the adjourned date, appropriate order on the prayer of the petitioners will be passed.

Final order, if not already passed, will not be passed till the next date of hearing.”

3. The plaintiffs/petitioners have filed the suit (Annexure P-6) seeking declaration that gift deed dated 07.07.2015 is illegal, null and void and is not binding upon their rights with a consequential relief of permanent injunction restraining the defendant No.2/respondent No.2 from alienating the suit land by way of sale deed/mortgage deed etc. as well as dispossessing the plaintiffs/petitioners from the suit land illegally and forcibly.

4. Learned counsel for the petitioners/plaintiffs submits that the injunction with regard to dispossession is also sought. The *khasra-girdawari* of the *kharif* crop for the year 2022 (Annexure P-13) has been prepared during the pendency of the case, wherein plaintiffs/petitioners have been shown to be in possession of the suit property. The said document is necessary for just decision of the case.

5. Learned counsel for the respondents, on the other hand, has submitted that the challenge in this case is to the validity of the gift deed. Any *girdawari* prepared during the pendency of the case has no relevancy.

6. I have heard learned counsel for the parties and perused the case record.

7. The *khasra-girdawari*, sought to be proved by way of additional evidence by the plaintiffs/petitioners, has been prepared by the Revenue Authorities in discharge of their official duties. The plaintiffs/petitioners have also sought relief of permanent injunction restraining the defendants from dispossessing them from the suit property. The *girdawari* entries have been made during the pendency of the case. A person seeking injunction against dispossession has every right to prove his possession during pendency of case also. No prejudice is going to be caused to the defendants/respondents if the impugned order is set aside. So, the order dated 03.01.2023 passed by the learned trial Court is partly set aside. The *girdawari* of the *kharif* crop for the year 2022, which is sought to be tendered by the plaintiffs/petitioners by way of additional evidence, is allowed to be tendered in evidence, subject to payment of Rs.1,000/- as costs.

8. The Petition stands disposed of in the above terms.

(GURBIR SINGH)
JUDGE

31.08.2023
manisha

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No