

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(240)

CR-7758-2018

Date of Decision : February 15, 2023

Gram Panchayat Kakarkunda

.. Petitioner

Versus

Chhatar Pal and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vineet Chaudhary, Advocate, for the petitioner.

Mr. Amit Chaudhary, Advocate, for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present civil revision petition, the challenge is to the order dated 22.10.2018 (Annexure P-9) by which, an application filed by the petitioner-plaintiff under Order 39 Rule 1 and 2 of the CPC for the grant of interim injunction, has been dismissed.

Learned counsel for the petitioner argues that the Gram Panchayat, Kakarkunda is the owner in possession of the land in question as keeping in view the order dated 13.12.2006 passed by the Assistant Collector, Ist Grade, Ambala, father of the respondents-defendants was ejected from the land in question, which land is concededly the ownership of the Gram Panchayat. The suit was filed by the Gram Panchayat restraining the respondents-defendants from cutting the trees from the land in question.

By way of interim prayer, an application under Order 39 Rule 1 and 2 of the CPC was filed which came to be decided by the trial Court vide order dated 22.10.2018 (Annexure P-9).

The trial Court while dismissing the application for the grant of interim injunction has recorded that as per the revenue record, the respondents-defendants are owner of the disputed khasra numbers and there is no document which has come on record to rebut the said presumption. Further, even if the defendants are in the illegal possession, they are to be evicted by due process of law and further, even the factum of cutting the trees is also yet to be proved. Said order of the trial Court dated 22.10.2018 is under challenge in the present civil revision petition.

Learned counsel for the petitioner argues that keeping in view the order dated 13.12.2006 passed by the Assistant Collector, Ist Grade, Ambala, father of the defendants was ordered to be evicted from the land in question, hence, the question that the defendants have been described as owner of the disputed khasra numbers is not correct.

I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

The plea for the grant of interim injunction has been declined on the ground that as per the revenue record, which is available, the defendants are the owner of the disputed khasra numbers and there is nothing on record to rebut the said presumption that the revenue record is not correct.

As far as the argument of the learned counsel for the petitioner that keeping in view the order dated 13.12.2006 passed by the Assistant Collector, Ist Grade, Ambala, father of the defendants was evicted from the

land in question. Nothing has come on record as to why, even after a period of 12 years of the passing of the said order, the revenue record was not changed by the Gram Panchayat qua the ownership of the land and possession of the same.

As no justifiable reason has come on record as to why, the factum that father of the defendants was evicted as per the order dated 13.12.2006 passed by the Assistant Collector, Ist Grade, Ambala, has been entered in the revenue record. Even the said order dated 13.12.2006 is yet to be proved on record. It cannot be said that the order passed by the trial Court dated 22.10.2018 is perverse in any manner.

However, in case suit property is being disposed of by the defendants, the petitioner will be at liberty to avail appropriate remedy before the trial Court for appropriate relief.

The present civil revision petition is disposed of in above terms.

February 15, 2023*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No