

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-688-2021 (O&M)

Date of decision: February 24, 2023

Deepak

....Petitioner

versus

Amit and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Sudhanshu Makkar, Advocate for the petitioner.

None for the respondents.

ARUN MONGA, J. (ORAL)

Present revision petition is to set aside impugned order dated 21.10.2020 (Annexure P-3) passed by learned Additional Civil Judge (Senior Division), Bhiwani as well as impugned appellate judgment/ order dated 28.01.2021 (Annexure P-4) passed by learned Additional District Judge, Bhiwani, whereby respondent-plaintiffs' application dated 08.06.2020 (Annexure P-1) moved under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short 'CPC') for grant of *ad interim* injunction has been allowed and restraining order has been passed against petitioner-defendant.

2. Grievance of the petitioner herein appears to be with regard to impugned order dated 21.10.2020 passed by learned trial Court, as upheld by learned First Appellate Court, whereby petitioner-defendant has been directed "*not to cause any hampering or forcible possession or extracting the standing crops or causing any losses in the suit land of the plaintiffs or to do any other mischievous activities till the decision of the present suit*".

3. I see nothing wrong in such direction issued during pendency of trial as it is in the interest of respective parties not to interfere in each other's possession over respective portion of land in question *qua* which they are in physical possession. The defence of petitioner before trial Court as well as before this Court is that partition proceedings *qua* land in question are pending and till the same are decided, demarcation of land in proportion to respective shares of parties cannot be carried out.

4. Be that as it may, all the more it is a reason in the aforesaid background that parties should not interfere in each other's physical possession until either conclusion of the trial and/ or finality of the partition proceedings.

5. It was in this background that during pendency of proceedings before this Court, my learned Brother Sudhir Mittal, J. (as he then was seized of the matter) passed following order dated 13.07.2021:

“Learned counsel for the petitioner submits that despite order dated 11.10.2015 depicting Kabja Karyawahi., the physical possession has not been transferred till date as is evident from the Khasra Girdawari and Nehri Girdawari annexed as Annexures P-8 and P-9. The physical possession was not transferred on the said date because status quo had been ordered in a civil suit filed regarding the entire property. This has been recorded by the Civil Judge, (Junior Division) Bhiwani in order dated 27.09.2016 annexed as Annexure P-6. Thus, the petitioner is a co-sharer along with the respondents and no order of injunction can be passed against him.

Notice of motion for 25.11.2021.

Meanwhile, status quo regarding possession as it exists today shall be maintained.”

6. Having heard learned counsel for the petitioner, I am of the view that instead of restraint being applicable only to the defendant, it is rather more appropriate that same shall apply to all the parties to suit and with this modification, the interim order *ibid* is made absolute during pendency of trial proceedings. Ordered accordingly.

7. Revision petition is accordingly, disposed of. Interim order dated 13.07.2021 as modified above is made absolute. Learned trial Court to proceed further in accordance with law.
8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

February 24, 2023
mahavir

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