

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-10615-2021

Date of decision:05.12.2023

VARINDER SHARMA

.....Petitioner

VERSUS

MUNICIPAL COMMITTEE AND ANOTHER

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. S.N. Jha, Advocate and
Mr. M.B. Zaman, Advocate
for the petitioner (Through V.C.).

Mr. K.S. Sidhu, Senior Advocate with
Mr. Praagbir S. Dhindsa, Advocate and
Mr. Kartik Bansal, Advocate
for the respondents.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer made in the present writ petition is for seeking issuance of directions to the Civil Judge (Senior Division), Mukerian, Hoshiarpur to expeditiously conclude the proceedings in Civil Suit bearing No. 459 of 2020 titled 'Varinder Sharma versus Municipal Committee and another'.

2. Counsel for the petitioner has argued that the petitioner had filed the above said Civil Suit for grant of decree of permanent injunction seeking restraint against the respondents and their agents from interfering in the possession of the petitioner. The said suit pertains to the land measuring total of 13 kanal 18 marlas, as per the jamabandi pertaining to the year 2017-18, and that the above said land has been in continuous and uninterrupted peaceful possession of the

petitioner for last more than 70 years as co-sharers. The said land was demarcated by construction of a boundary wall and fencing in the year 2010, however, some of the respondents are continuously threatening to interfere in the peaceful possession of the petitioner. The same thus compelled the petitioner to approach the Civil Court. It is contended that despite the suit having been instituted in the year 2020, it has not made any substantive progress and hence, the present writ petition has been filed.

3. Reply on behalf of the respondents has been filed wherein it has been averred that the above said Civil Suit had been instituted in the year 2020 and was delayed for some time on account of the prevailing Covid-19 scenario and the resultant instructions/guidelines issued by the State Governments about conduct of the proceedings. It has also been averred that an application under Order 39 Rule 1 and 2 CPC has already been decided between the parties and the case is fixed for evidence of the petitioner for 14.02.2023. The pace of the suit would be dependent upon the pace of the petitioner to conclude his evidence. There has been no delay on the part of the Court in concluding the proceedings.

4. I have heard learned counsel appearing on behalf of the parties and have gone through the documents appended alongwith the present writ petition.

5. In a case seeking direction for an expeditious decision, the primary requirement to be established is that the proceedings are being deferred for no valid reason and for an inordinately long period. Such an aspect could have only been determined from the zimni orders

wherefrom the reasons for delay could be ascertained. The same have neither been attached nor shown. Withholding of such primary requirement by the petitioner cannot lead to any inference against the respondent or that the proceedings are being unnecessarily delayed.

6. In the absence of zimni orders, it cannot be presumed that the matter is being adjourned unnecessarily by the Civil Court and/or that appropriate steps for expeditious disposal of the suit are not being taken. Further, the reason for approaching this Court is the apprehension expressed by the petitioner about being threatened by the respondents and their illegal interference in his peaceful occupation & possession. The petitioner although accepted that the application under Order 39 Rule 1 and 2 has already been decided by the Civil Court, however, he failed to apprise about the decision. The question as regards the protection of right of the petitioner and possession by an interim order, if any, would have been dealt with by the Civil Court and if the petitioner is not satisfied with the same, he has an appropriate remedy in filing a miscellaneous civil appeal before the District Judge. If an interim order has been passed in his favour, he can seek enforcement thereof and if the same is declined, then his claims of possession has not been prima facie found. In either case, the reasons for showing urgency for approaching this Court are not established.

7. Besides, the case is already fixed for recording of the evidence of the petitioner/plaintiff before the Civil Court. The pace of the Civil Suit shall be dependent upon the petitioner leading and concluding his evidence.

8. In the absence of the petitioner placing on record the

relevant material, despite the reply having been filed on 31.01.2023 and a period of 10 months having elapsed since then, I do not find that the prayer made in the present writ petition is supported by any valid cause mandating any direction to be issued to the Civil Court for deciding the matter within a period of 06 months as prayed for.

9. The present writ petition is accordingly disposed of. The parties may, if so advised, expeditiously conclude their evidence before the trial Court for an early disposal of the civil proceedings.

(VINOD S. BHARDWAJ)
JUDGE

DECEMBER 05, 2023

Vishal sharma

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