

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

250

CR-1185-2021 (O&M)

Date of decision: 16.03.2023

Satish Kumar and others

..... **Petitioners**

Versus

Hari Kishan and others

..... **Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present:- Mr. Alok Mittal, Advocate
for the petitioners.

Mr. V.P. Sangwan, Advocate
for respondents No.1 to 4.

Mr. Sumit Sangwan, Advocate
for respondents No.5 to 10.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present civil revision, challenge is to the order dated 25.05.2021 (Annexure P-6) and order dated 17.07.2020 (Annexure P-5) by which, the application filed by the petitioners under Order 39 Rule 1 and 2 CPC, has been dismissed.

Learned counsel for the petitioners submits that the present suit has been filed by the petitioners-plaintiffs seeking permanent injunction against the respondents-defendants in the suit property described therein. He further argues that the said property is in the joint ownership of the plaintiffs and the defendants. Learned counsel for the petitioners further submits that as the nature of the land was being changed by the defendants, the present suit was filed, so that the petitioners do not suffer any prejudice in case the land in question, which is in the possession of the defendants,

comes to the share of the petitioners.

Learned counsel for the petitioners argues that for the same property, which is a subject matter of the suit, the partition proceedings were initiated by the petitioners wherein, the Assistant Collector, vide order dated 28.06.2022 issued the Sanad Taksim by which, certain part of property in question has been given to the share of the petitioners and certain property has been put in the share of the defendants, though the said Sanad Taksim is under appeal as of now at the hands of the petitioners.

Learned counsel for the respondents submits that keeping in view the said factual aspect, the present suit has become infructuous for the reason that the property in question has already been partitioned though, the same is the subject matter in appeal before the Revenue Authority, hence, the undertaking of the defendants may be recorded that at present, the construction which was being done by them, is on a piece of land which has already come to their share as per the order passed by the Assistant Collector dated 28.06.2022. He further submits that in case any modification is done in the order dated 28.06.2022 passed by the Assistant Collector in the appeal preferred by the petitioners, any action required to be taken by the respondents including the demolition of the construction so done, will be done without raising any objections.

Learned counsel for the petitioners submits that keeping in view the undertaking given by learned counsel for the respondents, the present petition may kindly be disposed of as having been not pressed any further but the respondents may kindly be directed to coordinate so that the appeal pending before the Revenue Authority in respect of the order passed by the Assistant Collector dated 28.06.2022 is decided expeditiously so as to finalize the partition proceedings.

Learned counsel for the respondents submits that all the cooperation needed will be rendered in accordance with law.

Keeping in view the above said facts, no further orders are required to be passed in the present revision petition. However, it is made clear that the order so passed today, the disposal of the present revision petition will not preclude the petitioners to avail any remedy available to them in the appeal pending before Revenue Authority which has been preferred against the order of the Assistant Collector dated 28.06.2022, including the filing of an application for the stay of the order in question.

The pending miscellaneous applications i.e. CM-7818-CII-2021 & CM-85-CII-2023 shall stand disposed of.

16.03.2023
D.Bansal

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No