

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

CR-1957-2022 (O&M)
Reserved on: 02.02.2023
Date of pronouncement: 13.02.2023

Inder Jeet Singh and another

...Petitioners

Versus

Harjinder Kaur and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Yowan Sharma, Advocate for the petitioners.

Mr. Rajesh Hooda, Advocate for the respondents.

H.S. MADAAN, J.

Under challenge in this revision petition is the order dated 17.03.2022 passed by the Court of Civil Judge (Jr. Divn.), Panchkula in civil suit titled 'Harjinder Kaur Vs. Inderjeet etc.', vide which the application cum objections against leading additional evidence in rebuttal filed by defendant/counter claimants had been dismissed.

Briefly stated facts of the case are that plaintiffs Harjinder Kaur, Harpreet Kaur and Kamaldeep Kaur, all married daughters of Sher Singh had brought a suit against their brother Inder Jeet Singh and his wife Poonam Soni, praying for grant of permanent injunction restraining the defendants or persons claiming under them from interfering in peaceful possession of plaintiffs over plot in suit situated at Village Naggal, Tehsil and District Panchkula in any manner.

According to the plaintiffs, they are owners in possession of such plot in suit on the basis of registered sale deed dated 26.02.2015 executed by their father Sher Singh in their favour. Though the defendants have no right or concern with the plot even then they had been threatening to interfere in peaceful possession of the plaintiffs over the same, giving rise to a cause of action to the plaintiffs to bring the suit in question.

On getting notice, the defendants appeared and filed a written statement, contesting the suit, contending that defendant No.1 is an illiterate person, who has been selling milk since the age of 14 years. He has been keeping cattle in the plot which was adjacent to the land allotted to his father Sher Singh. Defendant No.1 has constructed a house in the plot enclosing it with a boundary wall by raising loan from Cooperative Society Bank. As a matter of fact, Sher Singh had been allotted land by the Department of Rehabilitation to the extent of 0K-13M comprised in khasra No.75/2 vide certificate of the year 1962. Sh. Sher Singh had executed a sale deed in favour of Balwinder Singh, one of his four sons, regarding 13 marlas of land. The answering defendants are in possession of the suit property since long having constructed a house adjacent to the plot. The plot is being used for tethering of cattle. The defendants have constructed mangers in the suit property. Sand and bricks of answering defendants are also there in the suit property, with which the plaintiffs have no concern. Since defendant No.1 does not keep good health, he has transferred the plot in question vide a registered transfer

deed in favour of defendant No.2. As a matter of fact, Sher Singh himself never remained in possession of the plot in question. The defendants claimed that they are in possession of the plot, whereas they denied the allegations leveled in the plaint while praying for dismissal of the suit. In that very suit, they had filed a counter claim seeking a declaration that they are owners in possession of the suit property and the sale deed executed by defendant No.4 (Sher Singh) in favour of defendants No.1 to 3 (plaintiffs in the main suit) is illegal, null and void and for restraining the defendants from interfering in peaceful possession of defendant/counter claimants.

The plaintiffs filed a written statement to the counter claim. Parties went to trial. During the course of proceedings, the plaintiffs led their evidence. The defendants cum counter claimants also adduced evidence. Thereafter, the plaintiffs sought to lead evidence which was objected to by defendants cum counter claimants, however, vide impugned order dated 17.03.2022 that objection was rejected. As such, the defendants cum counter claimants have approached this Court by way of filing the present revision petition, notice of which was given to the plaintiffs/respondents, who have put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record and I find that there is no merit in the revision petition.

It has to be taken note of that on filing suit for permanent injunction by the plaintiffs, on getting notice, the defendants had put in appearance and filed a written statement as well as a counter claim. Issues

on merits were framed. Both the plaintiffs and defendants No.1 and 2 cum counter claimants have led evidence. In the counter claim, the defendants cum counter claimants have impleaded Sher Singh as defendant No.4 impugning the sale deed executed by him in favour of the plaintiffs. Therefore, he is required to be given an opportunity to lead evidence. The defendants cum counter claimants cannot object to grant of opportunity to Sher Singh to lead evidence. The objections by the defendants cum counter claimants that plaintiffs could not lead evidence to improve their case is totally devoid of merit and is based upon wrong interpretation of law. The plaintiffs do have a right to lead evidence in rebuttal, which cannot be denied to them. The trial Court was fully justified in dismissing the application, vide impugned order.

Counsel for the petitioners had referred to judgment **Surjit Singh & Ors. Vs. Jagtar Singh & Ors.**, 2007(1) RCR (Civil) 537. The same is not applicable due to difference facts and circumstances in which such observations had been made.

I do not find any reason to interfere with the impugned order in revisional jurisdiction. The revision petition is found to be without merit and is dismissed accordingly. Resultantly, the interim order passed on 06.07.2022, directing the trial Court to adjourn the case beyond the date fixed before this Court, comes to an end.

13.02.2023

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(H.S. MADAAN)
JUDGE

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