

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

**COCP-1267-2022 (O&M)
Date of decision: 05.01.2023**

Avtar Singh

...Petitioner

Versus

Sunita and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Mani Ram Verma, Advocate
for the petitioner.

Mr. Sumit Sangwan, Advocate
for the respondents.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner alleges the violation of the order dated 06.12.2021 passed by this Court in CR-1958-2021, vide which in the revision filed by the petitioner/plaintiff challenging the orders of dismissal of his application filed under Order 39 Rule 1 & 2 of the CPC by the civil Judge as well as by the lower appellate Court, this Court has issued directions that “in the meantime, status quo regarding possession shall be maintained”.

Learned counsel for the petitioner submits that the respondents are now raising construction over the suit property.

Learned counsel for the respondents has placed on record photocopies of the order passed by the civil Judge, dated 25.01.2021, as well as order dated 25.08.2021 passed by the Additional District Judge, which are under challenge in the aforesaid revision. The civil Judge, while dismissing the application of the petitioner, has made following

observations:

“12.....In the present case, the plaintiff is also not remedy-less and the suit for partition has already been filed. Being the position as such, the plaintiff is not entitled for the relief prayed and the defendants are fully entitled to use and utilize the suit property as per their share and in their respective khewats. However, they are having no right in the khewats in which they are not the co-sharers. Meaning to say, they are entitled to use the land in the khewats in which they have purchased the share of the suit property and not in other khewats. Therefore, the defendants shall not interfere in the joint possession of plaintiff in the khewats in which the defendants are not co-sharer and they shall not forcibly dispossess the plaintiff from its joint possession, during pendency of this case.

13. With the above said observations, the injunction application filed by the plaintiff stands disposed off.”

The Additional District Judge, while dismissing the appeal filed by the petitioner, has upheld the order of the trial Court holding that in the absence of the plaintiff proving a prima facie case, balance of convenience is not in his favour and no irreparable loss or illegality is found in the order passed by the trial Court and the appeal was dismissed.

Learned counsel for the respondents submits that since there is no order of status quo with regard to raising any construction and the aforesaid status quo order is with a rider “qua possession only”, which, therefore, in terms of order passed by the Courts below goes in favour of the respondents, there is no violation of the order passed by this Court.

After hearing learned counsel for the parties and going through

the orders passed by this Court as well as by the Courts below, no case of willful disobedience or non-compliance of any order of this Court is made out as the order of status quo qua possession is to be interpreted in terms of the orders passed by the civil Judge and lower appellate Court recording a finding that defendants/respondents are entitled to use the suit property as per their share in the respective khewats and the petitioner has a remedy of filing a suit for partition. Moreover, the order of status quo is with a rider of “qua possession”, therefore, there is no direction qua construction by the respondents on their share of land.

Accordingly, the present petition is dismissed.

Rule stands discharged.

05.01.2023

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No