

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**105****CR No.1919 of 2021 (O&M)****Reserved on : 17.04.2023****Date of Decision : 29.04.2023**

Om Parkash and Others

....Petitioners

VERSUS

Gram Panchayat, Village Nahri and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Arun Bansal, Advocate for the petitioners.

ALKA SARIN, J.

1. The present revision petition has been filed challenging the order dated 18.08.2021 passed by the First Appellate Court and order dated 02.08.2016 passed by the Trial Court whereby the application filed by the plaintiff-petitioners under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 has been dismissed.

2. The brief facts relevant to the present *lis* are that the plaintiff-petitioners filed a suit for permanent injunction for restraining the defendant-respondents from interfering in their peaceful possession over a residential house as detailed in the plaint and further for restraining the defendant-respondents from dispossessing the plaintiff-petitioners illegally and forcibly. Along with the suit an application for interim injunction was filed. The plaintiff-petitioners claimed themselves to be the permanent residents of village Nahri, Teshil and District Sonapat and owners in possession of residential house-cum-plot measuring 305 square yards situated within the

Lal Dora of village Nahri. It was further averred that the father of the plaintiff-petitioners during his lifetime raised construction of pacca boundaries upto the height of about 10 feet and two rooms and one tin shed for tethering of cattle and was using the same for domestic and practical purposes. It was further averred that the plaintiff-petitioners were residing in the said house since the time of their birth and that the electricity connection was also installed at the house for the last 10 years. It was further the case of the plaintiff-petitioners that the defendant-respondents were threatening to demolish the house of the plaintiff-petitioners and to dispossess them illegally and forcibly. On notice, a written statement was filed raising various preliminary objections. On merits it was denied that the plaintiff-petitioners were owners in possession of residential house measuring 305 square yards. It was further denied that father of the plaintiff-petitioners was in settled possession of the suit property as alleged. Regarding the electricity meter, it was averred that the plaintiff-petitioners removed the old meter No.2469 and 2626 (new) from their residential house situated in *abadi* of village Nahri and installed the same in the disputed land only in order to create evidence in the present case. The plaintiff-petitioners in order to establish their possession placed on record the photocopy of the site plan, electricity bills and photographs. The Trial Court vide order dated 02.08.2016 dismissed the application for interim injunction. Aggrieved by the same, an appeal was preferred by the plaintiff-petitioners which appeal was also dismissed vide the impugned order dated 18.08.2021. Hence, the present revision petition.

3. Learned counsel for the plaintiff-petitioners would contend that the plaintiff-petitioners have been in continuous possession of the suit

property and hence, during the pendency of the suit, interim injunction ought to have been granted in their favour.

4. I have heard learned counsel for the plaintiff-petitioners.

5. In the present case there is no *prima facie* evidence which would reveal that the plaintiff-petitioners were in possession of the suit property. The reliance by counsel for the plaintiff-petitioners on the photographs to show the possession of the plaintiff-petitioners is wholly misplaced as photographs can never be proof of possession. It has been noticed in the order passed by the First Appellate Court that though in the plaint it has been averred that the plaintiff-petitioners have a residential house in the village, however, it was fairly conceded by the plaintiff-petitioners that they occupy another old house in the village. It has also been noticed in the order that the vacant land had been encroached upon and the Gram Panchayat promptly initiated action on application dated 13.01.2016 made by a social worker of village Nahri by sending it to the Deputy Commissioner, Sonapat which was then forwarded to the BDPO, Rai and in compliance of order passed by the Deputy Commissioner, Sonapat the BDPO, Rai wrote letter No.328 dated 10.03.2016 to the District Magistrate, Sonapat for providing police help for removal of unauthorized possession of the plaintiff-petitioners and one Suresh son of Rattan Singh from the land of Gram Panchayat.

6. Learned counsel for the plaintiff-petitioners has not been able to show how the three ingredients of *prima facie* case, balance of convenience and irreparable loss are made out in the present case.

7. In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

29.04.2023
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO