

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

277

CR-4839-2023(O&M)
Date of decision: 13.12.2023

Sandeep Sood

....Petitioner

Versus

M/s Bagga Singh and Sons and Ors.

...Respondents

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Aayush Gupta, Advocate
for the petitioner.

Mr. Rajat Malhotra, Advocate
for the respondents.

AMARJOT BHATTI, J.

CM-20314-CII-2023

This is an application under Section 151 CPC for placing on record the pen drive (Annexure R-II) containing video footage of the incidents dated 03.08.2023 and 04.08.2023 and Annexure R-12.

For the reasons mentioned in the application the same is allowed and Annexure R-II and R-12 are taken on record.

CM stands disposed of.

CR-4839-2023(O&M)

1. The petitioner-Sandeep Sood filed civil revision under Article 227 of the Constitution of India against impugned order dated 11.08.2023 passed by learned Civil Judge (Junior Division), Ludhiana in Civil Suit No.9964 of 2023 titled as Dr. Sandeep Sood vs. M/s Bagga Singh and

Sons, and Ors.

2. It is pointed out that the present petitioner had filed suit for permanent injunction restraining the defendants, their agents, attorneys, servants, etc. from interfering in peaceful possession or dispossessing him from the property measuring 1694 sq. Yards bearing Khasra numbers situated at Village Taraf Saidan, Tehsil and District Ludhiana along with mandatory injunction directing the defendants No.1 and 2 to handover the original agreement/settlement dated 17.07.2023 to the petitioner/plaintiff along with relief of permanent injunction from destroying or tampering the said settlement/agreement dated 17.07.2023. Learned counsel for the petitioner submitted that the present petitioner had purchased the property vide registered sale deed dated 24.12.2009 and mutation was also sanctioned in his favour. The defendant No.1 and 2 were in possession of the property as tenant under the previous owner. A rent of Rs.1,50,00,000/- was outstanding against defendants No.1 and 2 for the last 14 years. The other articles of the petitioner were also lying in the property in question. The matter was settled between the parties with the intervention of Gopal Krishan. It was settled that the petitioner will not claim the aforesaid rent rather he shall pay another sum of Rs.60,00,000/- to defendants No.1 and 2 in lieu of vacating the property. The petitioner had given Rs.50,00,000/- to defendants No.1 and 2 which was paid after withdrawing the amount from NRI account. It was further settled that he will pay another sum of Rs.10,00,000/- to defendants No.1 and 2 out of which Rs.5,00,000/- were paid in cash and balance of Rs.5,00,000/- were paid through cheque. Therefore, a total of Rs.60,00,000/- were paid on the basis of said settlement dated 17.07.2023. In pursuance of this settlement

the defendants No.1 and 2 vacated the premises and handed over the possession to the petitioner. On 03.08.2023, the defendants along with some anti-social elements tried to dispossess the petitioner from the property in question and for this reason, the suit for permanent injunction was filed. The copy of plaint and stay application is Annexure P-1 and P-2 respectively. The learned trial Court after appreciating the facts of the case and the documents, granted ex-parte order of status quo in favour of the petitioner vide order dated 05.08.2023 which is Annexure P-3. The copy of compromise/settlement dated 17.07.2023 is Annexure P-4. The petitioner being owner of the property had filed rent petition under Section 13 of East Punjab Urban Rent Restriction Act, 1949 against the defendants which was pending since 2017. After the execution of compromise, the said rent petition was withdrawn on 08.08.2023. The copy of rent petition dated 19.04.2017 is Annexure P-5 and copy of order dated 08.08.2023 is Annexure P-6. The respondent No.1/defendant had also filed a suit for declaration and injunction in the year 2010 and stay was granted in the said civil suit. The copy of Civil Suit dated 10.02.2010 is Annexure P-7 and copy of stay order dated 01.09.2014 is Annexure P-8. Since the matter was settled between the parties as per settlement/agreement dated 17.07.2023 (Annexure P-4), the respondent No.1 instead of withdrawing the suit (Annexure P-7) made a statement before the Court denying the said compromise. The copy of order dated 09.08.2023 is Annexure P-9. The respondent No.1 filed application for vacating the stay order dated 05.08.2023 in the suit filed by the petitioner/plaintiff. The said application is Annexure P-10. The learned trial Court without appreciating the peculiar facts and circumstances of the case vacated the stay granted in

favour of the petitioner/plaintiff by passing impugned order dated 11.08.2023. Thereafter, the present petitioner filed the present civil revision.

The learned counsel for the petitioner argued that the impugned order passed by the learned trial Court is without any justification. The merits of settlement/compromise dated 17.07.2023 (Annexure P-4) will be seen at the time of final adjudication of the case. There is no concealment of previous litigation while filing the suit for permanent injunction. In fact the present petitioner is in possession of property in question on the basis of compromise dated 17.07.2023 (Annexure P-4). The photographs of the petitioner to establish his possession is Annexure P-11. The material facts and the documents have been totally ignored while passing the impugned order dated 11.08.2023. It is submitted that the aforesaid order is without justification and the same may kindly be set aside and the stay application be decided on merits.

3. On the other hand, the learned counsel for respondent No.1/defendant argued that the petitioner misused the process of law by concealing material facts. It was M/s Bagga Singh and Sons, a partnership firm through Sh. Jaswinder Singh had filed suit for declaration along with permanent injunction against Anoop Kumar and others in which the present petitioner-Sandeep Sood was arrayed as defendant No.8. The copy of plaint is Annexure P-7. In the said civil suit, application for stay under Order 39 Rules 1 and 2 read with Section 151 CPC was filed and the stay application was decided in their favour by passing order dated 01.09.2014 which is Annexure P-8. It is also stated that Sandeep Sood had filed

ejectment petition against M/s Bagga Singh and Sons under Section 13 of East Punjab Urban Rent Restriction Act, 1949 in the year 2017. The copy of ejectment petition is Annexure P-5. Both the cases were pending before different courts and the proceedings were going on. No compromise/settlement was arrived at vide compromise deed dated 17.07.2023 (Annexure P-4). In fact it is a fake document and the original of the same has not been produced by the petitioner. The present petitioner filed another civil suit seeking permanent injunction as well as mandatory injunction against M/s Bagga Singh and Sons and others and managed to obtain stay order dated 05.08.2023 by concealing the previous litigation which was already going on. The present petitioner referred to the disputed compromise/settlement dated 17.07.2023 for the first time during the proceedings of civil suit filed by M/s Bagga Singh and Sons on 09.08.2023 which was categorically denied by the respondent. The relevant zimni order dated 09.08.2023 is Annexure P-9.

It is argued that even after the alleged compromise/settlement dated 17.07.2023, the proceedings in the civil suit continued. The present petitioner withdrew the ejectment petition in their absence, on his own. In fact no such compromise was ever arrived at. Neither the respondent received any amount nor handed over the vacant possession of the shop to the present petitioner. In fact the petitioner through anti-social elements came to their shop and damaged their property and later on put their locks on the shop at night time and thereafter, got his photographs clicked to establish his possession. In case there was any compromise/settlement dated 17.07.2023 (Annexure P-4) as claimed by the present petitioner, there was no reason to take forcible possession as it was captured in a

CCTV camera. The pen drive Annexure R-11 of said footage is also played in the Court to clarify the factual position. In the light of aforesaid circumstances, the status quo order dated 05.08.2023 was rightly vacated. He has placed on record the photographs regarding forcible dispossession Annexure R-2. The application for police help to protect his life and liberty is Annexure R-3. The signatures on disputed settlement dated 17.07.2023 got examined from Handwriting and Finger Print Expert and the report is Annexure R-6. Complaint was also filed before the Magistrate for registration of FIR which is Annexure R-7. It is argued that the learned Civil Judge (Junior Division), Ludhiana has rightly passed the order dated 11.08.2023 and it does not require any interference. Therefore, the civil revision preferred by the present petitioner is without merits.

4. I have considered the arguments advanced before me and I have carefully gone through the documents on record. It is a matter of record that firstly, M/s Bagga Singh and Sons, a partnership firm through Jaswinder Singh one of the registered partner filed suit for declaration and permanent injunction regarding the shop, workshop, godown as detailed in the plaint against Anoop Kumar and others including the present petitioner-Sandeep Sood who was arrayed as defendant No.8. The said civil suit was filed in the year 2013. Copy of the plaint is Annexure P-7. M/s Bagga Singh and Sons have also filed application under Order 39 Rule 1 and 2 read with Section 151 CPC, which was allowed vide order dated 01.09.2014 which is Annexure P-8. Thereafter, the present petitioner-Sandeep Sood filed ejectment petition under Section 13 of East Punjab Urban Rent Restriction Act, 1949 for the eviction of respondent-M/s Bagga Singh and Sons from the property measuring 1694 sq. yards part of

property as detailed in the petition. The copy of ejectment petition is Annexure P-5. During the pendency of aforesaid litigation, the present petitioner-Sandeep Sood claimed that with the intervention of Gopal Krishan the matter was allegedly compromised vide compromise/settlement dated 17.07.2023 which is Annexure P-4. The perusal of said compromise/settlement (Annexure P-4) indicates that after receiving money as detailed in the said compromise, M/s Bagga Singh and Sons handed over possession of the property in favour of petitioner-Sandeep Sood and it was also decided between them to withdraw the cases which were filed against each other. The aforesaid compromise/settlement dated 17.07.2023 (Annexure P-4) is denied by Ms/ Bagga Singh and Sons and it was claimed that no money was received by them. Neither they handed over the possession of premises in favour of Sandeep Sood nor there was any settlement regarding withdrawal of the cases filed against each other. The perusal of record shows that the ejectment petition filed by Sandeep Sood was withdrawn vide order dated 08.08.2023. The copy of said order is Annexure P-6. The perusal of order dated 09.08.2023 (Annexure P-9) indicates that when Sandeep Sood claimed the compromise/settlement dated 17.07.2023, in suit for declaration the same was denied by M/s Bagga Singh and Sons through their partner Jaswinder Singh. The copy of zimni order dated 09.08.2023 is Annexure P-9. It is rightly pointed out by the learned counsel for the respondent that despite the alleged compromise dated 17.07.2023 (Annexure P-4), the proceedings were going on in the suit for declaration and this compromise/settlement was never alleged prior to 09.08.2023. It is further rightly pointed out that the ejectment petition was withdrawn by the petitioner on 09.08.2023 and

in that order the presence of respondent was not marked. Admittedly, there was stay order dated 01.09.2014 (Annexure P-8) in favour of M/s Bagga Singh and Sons. Despite the aforesaid litigation, the present petitioner filed suit for permanent injunction and mandatory injunction against M/s Bagga Singh and Sons. The copy of plaint is Annexure P-1. The copy of stay application filed in the said civil suit is Annexure P-2 and the ex parte status quo order dated 05.08.2023 in favour of Sandeep Sood is Annexure P-3. In the copy of plaint (Annexure P-1), the present petitioner/plaintiff based his entire case on the basis of disputed compromise/settlement dated 17.07.2023. In para No.13 of the plaint, it was mentioned that 'no such suit or similar proceeding *inter se* the parties to the suit on the same subject matter is either pending or has been decided by any Court of law except the previous litigation between the parties which had to withdrawn as per compromise'. There is no specific reference of the suit for declaration filed by M/s Bagga Singh and Sons or ejectment petition filed by Sandeep Sood which was withdrawn as per order dated 08.08.2023. The respondent/defendant No.1 while disputing the terms of compromise dated 17.07.2023 (Annexure P-4) had relied upon a CCTV footage recorded in a CD which was duly played in the Court showing the manner in which some anti-social persons entered the property in question and the lock was put on the shop at night time and later on the photographs were got clicked in front of the said shop.

Learned counsel representing the respondents strongly denied the execution of said compromise/settlement dated 17.07.2023 (Annexure P-4) and it was alleged that it was a fake document. The learned counsel for respondents have also placed on record one report of Handwriting and

Finger Print Expert (Annexure R-6). The respondents filed application dated 08.08.2023 (Annexure P-10) to vacate the stay granted in favour of the petitioner/plaintiff under Order 39 Rule 4 CPC which runs as under:-

“4. Order for injunction may be discharged, varied or set aside:- Any order for an injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order:

“Provided that if in an application for temporary injunction or in any affidavit supporting such application, a party has knowingly made a false or misleading statement in relation to a material particular and the injunction was granted without giving notice to the opposite party, the Court shall vacate the injunction unless, for reasons to be recorded, it considers that it is not necessary so to do in the interest of justice:

Provided further that where an order for injunction has been passed after giving to a party an opportunity of being heard, the order shall not be discharged, varied or set aside on the application of that party except where such discharge, variation or setting aside has been necessitated by a change in the circumstances, or unless the Court is satisfied that the order has caused undue hardship to that party.”

The learned trial Court by relying upon the material available before her passed the impugned order dated 11.08.2023 which is challenged by filing the present civil revision. The authenticity of compromise/settlement dated 17.07.2023 (Annexure P-4) as well as the report of Handwriting and Finger Print Expert (Annexure R-6) can be seen during the proceedings of Civil Suit filed by the petitioner/plaintiff. Similarly the CD which is played in this Court will be appreciated during the trial of the case. Both the parties will be required to lead their respective evidence to prove their version. During the pendency of the

suit, nobody can be permitted to take the law in his own hands. Therefore, the sequence of events and the documents including CD played in the Court cannot be ignored at this stage.

Therefore, in my opinion the impugned order dated 11.08.2023 passed by learned Civil Judge (Junior Division), Ludhiana does not require any interference at this stage and the same is accordingly upheld and the civil revision preferred by the present petitioner/plaintiff is accordingly declined.

Pending application(s), if any, shall also stands disposed of.

13.12.2023
Sunil Devi

(AMARJOT BHATTI)
JUDGE

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