

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

CR-6228-2019(O&M)

Reserved on:-26.4.2023

Date of Pronouncement:-4.5.2023

Rajesh Kumar and others

...Petitioners

Versus

Lovejeet Singh and others

...Respondents

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

Present: Mr.Bhupinder Ghai, Advocate
for the petitioners.

Mr.G.S. Bhatia, Advocate
for the respondents.

H.S. MADAAN, J.

1. Under challenge in this revision petition is the order dated 21.5.2019 passed by the Court of Civil Judge (Jr.Divn.), Ludhiana vide which an application moved on behalf of the defendants for dismissal of the suit had been rejected.

2. Briefly stated, facts of the case are that the defendants in the application so filed by them, had contended that power of attorney holder of plaintiff No.1 Lovejeet Singh namely Manjit Singh had no authorization to file the suit on his behalf because he had been appointed as special power of attorney for the purpose of executing the sale deed or entering into agreement to sell with respect to property of Lovejeet Singh and in terms of that power of attorney Ex.P17, Manjit Singh was not authorized to file the suit.

Another ground taken in the application was that plaintiffs are no longer in possession of the property because earlier a civil suit was filed by Lovejeet Singh and other plaintiffs, which was dismissed and during pendency of the appeal, the plaintiffs had filed an application under Section 151 CPC that possession be restored to them. It being so, a suit for permanent injunction at their instance was not maintainable.

3. The application was resisted by the plaintiffs. In the written reply filed by them, they contended that Manjit Singh was fully authorized to file the suit and he had been in possession of the suit property on behalf of the plaintiffs, therefore, he had every right to file the suit. With regard to dispossession from the suit property, the plaintiffs submitted that defendants cannot take advantage of that fact because they had violated the status quo order passed by the Court in taking possession of the suit property from the plaintiffs.

4. Vide the impugned order dated 21.5.2019, the application was dismissed mainly for the following reasons:

(i) The objection with regard to Manjit Singh being not authorized to file the suit had been taken at a highly belated stage when the matter had been remanded to the trial Court by the District Court for deciding it afresh after suffering two stages of litigation.

(ii) The suit had been filed by three plaintiffs and plaintiffs No.2 and 3 had properly authorized Manjit Singh to file the suit. With regard to Lovejeet Singh power of attorney executed by him in favour of Manjit Singh Ex.P17 shows that it had authorized Manjit Singh to do all acts concerning possession of the property in dispute and to

file any type of application pertaining to property in question, in that way intention of the plaintiff was to allow Manjit Singh to deal with the property in suit including instituting any suit.

(iii) With regard to dispossession of the plaintiffs from the suit property that had taken place during the pendency of the appeal that too when the status quo order was in operation. In view of the rival claims as observed by the Appellate Court demarcation of the property was required to effectively identify the properties of both the parties. Therefore, no ground was there to dismiss the suit for the reason of plaintiffs being not in possession of the suit property presently.

5. Such order left the defendants aggrieved and they have approached this Court by way of filing the present revision petition, notice of which was issued to the respondents and they have put in appearance through counsel.

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

7. The impugned order passed by the trial Court is quite detailed and well reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

8. Finding no merit in the revision petition, the same stands

dismissed.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

4.5.2023

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No