

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CR-5428-2023

Date of Decision : 04.10.2023

Harcharan Singh

.....Petitioner

Versus

Gurcharan Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. R.S. Bajaj, Advocate for the petitioner.

NAMIT KUMAR, J. (ORAL)

1. The instant revision petition has been preferred by the petitioner under Article 227 of the Constitution of India impugning the order dated 25.08.2023 (Annexure P-4) passed by the Court of learned District Judge, Jalandhar in TA No.92 of 2023 titled as 'Harcharan Singh Vs. Gurcharan Singh and another' whereby an application filed by the petitioner/plaintiff under Section 24 of CPC for transfer of Civil Suit No.791 of 2018 titled as 'Harcharan Singh Vs. Gurcharan Singh and another' pending in the Court of learned Civil Judge (Junior Division), Phillaur, District Jalandhar to some other Court, has been dismissed.

2. The brief facts leading to the filing of the present petition as has been narrated in the petition are that the petitioner was owner in possession of property bearing Khewat No.533/491, Khatauni No.577, Khasra No.321 (5-15) situated in abadi area of Village Nagar, Tehsil Phillaur, District Jalandhar and respondent No.1 was also co-owner in

the fard jamabandi for the year 2014-15. In the year 2005, a written partition took place and family partition had been effected between the petitioner and respondent No.1 regarding above referred property. After partition, both the parties had been using their respective shares in the property. However, subsequently, with a view to grab the rasta in dispute with mala fide intentions, respondent No.1 had started threatening to encroach the rasta in dispute illegally and forcibly. Thereafter, the petitioner has filed a suit bearing No.CS-1001-2017 titled as 'Harcharan Singh Vs. Gurcharan Singh' for permanent injunction against respondent No.1 for restraining him from encroaching the rasta in dispute. The said suit was dismissed by learned Civil Judge (Junior Division), Phillaur vide judgment and decree dated 15.05.2023. Thereafter, the petitioner has filed another suit bearing No.791 of 2018 titled as 'Harcharan Singh Vs. Gurcharan Singh and another' against the respondents for restraining them from interfering, creating obstructions and hindrances into the use and usage of tubewell motor connection bearing No.AP10/1450 and AP27/0040 for irrigation purposes for the agricultural land described therein which included land comprised in Khewat No.533/491, Khatauni No.577, Khasra No.321 (5-15). The said suit is also pending in the same Court of Civil Judge (Junior Division), Phillaur. The petitioner/plaintiff filed an application under Section 24 of CPC before learned District Judge, Jalandhar for transfer of Civil Suit No.791 of 2018 pending in the Court of learned Civil Judge (Junior Division), Phillaur to some other Court of the

competent jurisdiction at Phillaur. It was averred in the application that since the same Presiding Officer has already adjudicated upon a connected civil suit against the applicant/plaintiff, therefore, the instant suit is likely to be decided against the applicant/plaintiff. He does not expect fair and just decision in the above-noted suit as the Presiding Officer is biased towards the applicant/plaintiff and showing undue indulgence to the respondents. The said application has been dismissed by learned District Judge, Jalandhar by recording the following findings:-

“Heard on the application filed by applicant for transfer of case in question from the Court of Sh.Sukhmandeep Singh, Civil Judge (Jr.Divn.), Phillaur to some other court. The only reason mentioned in the transfer application, is that the court of Sh.Sukhmandeep Singh, Civil Judge (Jr.Divn.), Phillaur has already expressed its opinion against the plaintiff in the connected civil suit bearing No.791/2018 titled as ‘Harcharan Singh Vs. Gurcharan Singh and another’, vide which the suit of the plaintiff has been dismissed. However, it is not the case of the applicant that in the present case the issue involved is the same or that the evidence is also the same. Totally vague allegations have been levelled that the learned Presiding Officer Sh.Sukhmandeep Singh, Civil Judge (Jr.Divn.), Phillaur is biased. Thus, no ground is made out to transfer the case in question, therefore, the present application stands dismissed being devoid of any merits. File be consigned to Record Room.”

3. Aggrieved against the order dated 25.08.2023 passed by learned District Judge, Jalandhar, the instant revision petition has been filed.

4. Learned counsel for the petitioner has argued that the application filed by the petitioner has wrongly been rejected by learned District Judge, Jalandhar vide impugned order dated 25.08.2023 and in view of the averments made in the application for transfer of the suit, it was incumbent upon learned District Judge, Jalandhar to transfer the civil suit to some other Court.

5. I have heard learned counsel for the petitioner and perused the relevant documents.

6. No doubt, a transfer application can be filed under Section 24 of CPC but such application must be based on some substantive reasons or evidence. Mere apprehension in mind of the petitioner is not sufficient to conclude that justice would not be delivered to him. The averments made in the application filed by the petitioner for transfer of Civil Suit No.791 of 2018 from the Court of Sh. Sukhmandeep Singh, Civil Judge (Junior Division), Phillaur to some other Court is totally baseless as vague allegations have been levelled in the application. The earlier suit i.e. Civil Suit No.1001 of 2017 filed by the petitioner was decided by Sh. Sukhmandeep Singh, Civil Judge (Junior Division), Phillaur keeping in view the facts of the said case and simply because the earlier suit was decided against the petitioner, it cannot be presumed that the same Court would decide the present suit in the same manner.

7. The impugned order dated 25.08.2023 passed by learned District Judge, Jalandhar does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The

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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.

04.10.2023

Kothiyal

Whether Speaking/reasoned
Whether Reportable

(NAMIT KUMAR)
JUDGE

Yes/No
Yes/No