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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3683-2017 (O&M)
Date of decision : 15.05.2023

Gurmit Singh ... Petitioner(s)

Versus

Harvinder Singh ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Surinder Thakur, Advocate for the petitioner.

Mr. Naveen Batra, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been preferred against the impugned orders dated 19.01.2017 and 15.03.2014 allowing the application under Order 39 Rule 2-A of the Code of Civil Procedure, 1908 (CPC) and directing the defendant-petitioner herein to undergo civil imprisonment for a period of one month

2. Learned counsel for the defendant-petitioner would contend that there is not an iota of evidence on the record that the defendant-petitioner had interfered in the possession of the plaintiff-respondent in any manner.

3. *Per contra*, learned counsel for the plaintiff-respondent has contended that the defendant-petitioner in his cross-examination had

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admitted the plaintiff-respondent to being in possession and that it amply stood proved that the defendant-petitioner had interfered in the possession.

4. Heard.

5. In the present case the present suit for permanent injunction was filed by the plaintiff-respondent along with an application under Order 39 Rules 1 and 2 CPC. On 27.11.2009 the application was disposed off with the following observation :

“4. After hearing arguments of both the parties and after going through the file carefully, I have observed that both the plaintiff and defendants are claiming that the suit land is in their possession. In such a situation the fact as to in whose possession the disputed land is to be proved by the parties by leading their respective evidence. I find this a fit case for granting status quo relying upon Apex Court authority titled Harbhajan Singh Vs. Prabhasharan Singh 1999(2) CCC 409 (P&H) wherein it has been held by the Apex Court that where both the parties assert possession over the suit land, status quo regarding possession is the best order.

5. Accordingly, both the parties are directed to maintain status quo with regard to possession over the suit land. Further the defendant is restrained from interfering into the peaceful possession of the plaintiff till the final decision of the suit. However it is made

clear that the observations made in this order shall have no effect on the merits of this case.”

6. Thereafter, an appeal was preferred by the defendant-petitioner herein challenging the order dated 27.11.2009 and on 24.12.2009, the following order was passed by the Appellate Court :

“In the meantime the parties are directed to maintain status quo and the operation of the later part of the impugned order regarding restraining the defendants from interfering into the peaceful possession of the plaintiff is stayed.”

7. Subsequently, an application under Order 39 Rule 2-A CPC was filed for initiating contempt of court proceedings against the defendant-petitioner and for committing him to civil imprisonment on the ground that the defendant-petitioner had interfered in the possession and also destroyed the crops of the plaintiff-respondent. A reply was filed to the said application. Vide order dated 15.03.2014 the Court returned a finding that there had been a violation of the injunction order and directed that the defendant-petitioner be sent to civil imprisonment for a period of one month. Aggrieved by the said order, an appeal was filed which was also dismissed vide order dated 19.01.2017. Hence, the present revision petition.

8. In the present case, admittedly, the only order that was passed is the status quo order as the injunction order restraining the defendant-petitioner from interfering in the peaceful possession stood modified by the Appellate Court vide order dated 24.12.2009. Further, a perusal of the

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impugned order dated 15.03.2014 reveals that there is not an iota of evidence on the record to show that the destruction of the crops was caused by the defendant-petitioner. The argument of learned counsel for the plaintiff-respondent that it is an admitted case that the plaintiff-respondent is in possession and hence the defendant-petitioner has rightly been committed to civil imprisonment for a period of one month, cannot be accepted in the absence of any evidence to the effect that the defendant-petitioner had actually interfered in the possession and caused any destruction of the crops.

9. In view of the above and keeping in view the fact that there is absolutely no evidence on the record showing that the defendant-petitioner had in any manner destroyed the crops of the plaintiff-respondent, the impugned orders dated 19.01.2017 and 15.03.2014 cannot be sustained in law and the same are set aside. The present revision petition is accordingly allowed. Pending applications, if any, also stand disposed off.

15.05.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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