

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CR-87-2024 (O&M)

Date of decision: 19.03.2024

Inderpal

...Petitioner.

Versus

Aarush Yadav and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Surinder Kumar Daaria, Advocate
for the petitioners.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 08.12.2023 (Annexure P-9) passed by learned trial Court, vide which application filed by the petitioner under Order 1 Rule 10 of CPC was dismissed.

2. The brief facts relevant for the adjudication of the present revision petition are that the plaintiff filed a civil suit No.144 of 2021 for declaration with consequential relief of permanent injunction against respondents No.1 and 2 qua land measuring 114 Kanal (63 Kanal + 15 Marla and 50 Kanal + 5 Marla) Chahi situated within the revenue estate of village Mehchana, Tehsil Farukhnagar, District Gurugram, by alleging that he is joint owner in possession alongwith the other who are also co-sharers as per their shares. The plaintiff challenged the General Power of Attorney

bearing vasika No.58 dated 06.07.2020 and transfer deed based upon the said General Power of Attorney.

3. During pendency of the suit, the application under Order 39 Rules 1 and 2 CPC moved by the plaintiff was allowed in his favour vide order dated 20.04.2022 by holding that when the GPA in question is under suspicion, then it would be best for the interest of both the parties that the suit property should not be alienated, transferred etc. by the defendants till the decision of this case. It was also held that as per jamabandi as well as Khasra Girdawari till Kharif 2021 of the suit property, the documents available on the file prima facie show possession of the plaintiff upon the suit land. Hence, the defendants were restrained to dispossess the plaintiff or to interfere into the peaceful possession of the plaintiff over the suit land.

4. The petitioner moved an application under Order 1 Rule 10 CPC alleging that the petitioner and plaintiff are co-owners and co-sharers of the suit land which property is still joint and has not been partitioned by metes and bounds in the revenue records. As the entry regarding the stay granted by the trial Court was made in the revenue record, so the petitioner is facing difficulty in executing the agreement and to sell his share in the suit land. It was alleged that the right of the petitioner was suffering due to the stay entry and the petitioner is a necessary party to protect/ save his right.

5. Reply to the said application was filed and thereafter, after hearing the counsel for the parties, the said application was dismissed by the trial Court vide order dated 08.12.2023. Hence, the petitioner knocked the doors of this Court by way of filing the present revision petition.

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6. Learned counsel for the petitioner has contended that the as the petitioner is also a co-sharer in the suit land, so due to the stay entry in the revenue record, hardship is being caused to him. He has submitted that the petitioner is a necessary party in the suit to protect his right and his presence is required for proper adjudication of the matter.

7. I have heard learned counsel for the petitioner and have gone through the relevant record.

8. The present suit has been filed by the plaintiff seeking relief of declaration and permanent injunction against the defendants in respect of the suit property. The plaintiff has not sought any relief against the petitioner. The petitioner wants to be added as a party in the main suit due to the stay entry incorporated in the revenue record. But it has been rightly observed by the trial Court that as per order dated 20.04.2022 of this Court only the defendants were restrained from dispossessing the plaintiff and interfering in the peaceful possession and to alienate the suit property. So, the said stay has no impact upon the petitioner. Learned counsel for the petitioner has placed on record copy of jamabandi for the year 2021-22 from which also the aforesaid fact is clear and the endorsement has been made to the said effect only. Otherwise also, the plaintiff is dominus litus and cannot be forced to file a case against a person, against whom he has not sought any relief.

9. Thus, there being no illegality or infirmity in the impugned order no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands

dismissed.

10. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

19.03.2024.
komal

Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No