

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Revision No.303 of 2024
Date of Decision: 19.01.2024

Kulwinder Singh
...Revisionist-Petitioner
Versus
Avtar Singh & others
...Respondents

CORAM: HON’BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Naveen Batra, Advocate,
for the revisionist-petitioner.

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MEENAKSHI I. MEHTA, J.(ORAL)

By filing the instant revision-petition under Article 227 of the Constitution of India, the petitioner-plaintiff (here-in-after to be referred as ‘the plaintiff’) has assailed the order (Annexure P-3) passed by learned Civil Judge (Junior Division), Sri Anandpur Sahib (for short ‘the trial Court’) in *Civil Suit No.296 of 2023* titled as “*Kulwinder Singh versus Avtar Singh and others*” on 05.10.2023, whereby he as well as the respondents-defendants (here-in-after to be referred as ‘the defendants’) have been directed to maintain status quo regarding the alienation of the suit property while further observing that if any construction is raised thereon by any of the parties, the same would be subject to the final partition/the decision of the case and he has also laid challenge to the judgment Annexure P-4, handed down by learned Additional District Judge, Rupnagar (for short ‘the Appellate Court’) on 10.01.2024, qua the dismissal of the appeal bearing *CMA No.80 of 2023*, as preferred by him (plaintiff) against order Annexure P-3, with the observations

that the defendants could raise the construction on the '*Gair-Mumkin*' portion of the suit property but at the time of final partition of the same by metes and bounds, they could not claim the particular portion thereof, where upon they would raise the construction and such construction would be raised by them at their own peril.

2. I have heard learned counsel for the petitioner-plaintiff in the present revision-petition, at the preliminary stage and have also gone through the file carefully.

3. Learned counsel for the plaintiff contends that the defendants are all out to raise construction on the most valuable portion of the entire joint holding, i.e the suit property, whereas they could not have been allowed to do so during the pendency of the Civil Suit, filed by the plaintiff for seeking the possession of the portion of this property, as per his share therein, by way of its partition and therefore, the impugned order and judgment are not legally sustainable and hence, the same deserve to be set aside.

4. However, the above-raised contention is *sans* any merit because the trial Court, as mentioned earlier, has categorically observed in its order Annexure P-3 that if any of the parties would raise the construction in the suit property, the same would be subject to the final partition thereof. Similarly, in the judgment Annexure P-4, the Appellate Court has also specifically clarified that the defendants could raise the construction on the '*Gair-Mumkin*' portion of the suit property but however, at the time of final partition of the same, they could not claim any particular portion, upon which they would raise the construction during the pendency of the Suit and if they raise any such construction, they would do so at their own peril. Thus, it is explicit that

while passing the impugned order and also the judgment, both the Courts below have protected/taken due care of the right of the plaintiff in the final event, i.e the partition of the suit property by metes and bounds and it being so, no fault can be found with the same.

5. As a sequel to the fore-going discussion, it follows that the impugned order and judgment do not suffer from any illegality, infirmity, irregularity or perversity so as to warrant any interference by this Court. Resultantly, the revision-petition in hand, being bereft of any merit, stands dismissed accordingly.

19.01.2024
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*