

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

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CR-1086-2024 (O&M)

Date of decision:22.02.2024

Balwinder Singh & others

... Petitioners

Vs.

Ranjit Singh & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Naresh Kaushal, Advocate for the petitioners.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by the petitioners against the order dated 26.10.2023 passed by the Civil Judge (Sr. Division), SAS Nagar (Mohali), whereby application under Order 1 Rule 10 CPC filed by the applicants (petitioners herein) has been dismissed being not maintainable.

2. Brief facts as per revision petitioners are that late Sh. Gurbaksh Singh donated land bearing khasra No.247 (1-1) situated at village Kumbra, H.B. No.6, Sector-68, Tehsil and District SAS Nagar (Mohali) for construction of a school in the year 1980, in the presence of the Panchayat members of the village. Necessary site plan/site sketch was got prepared from the competent authority and the construction was raised and since then the School i.e. Govt. Primary School Kumbra is running there. During his lifetime, Gurbaksh Singh never questioned regarding the possession/title of the school. The respondents/plaintiffs claiming themselves to be the legal representatives of Gurbaksh Singh, filed a suit for mandatory injunction and

possession of the land bearing khasra No.247 (1-1) situated at village Kumbra, H.B. No.6, Sector-68, Tehsil and District SAS Nagar (Mohali) and mesne profits.

3. Upon issuing notice, defendants No.1, 2 and 4 filed their separate written statements. Thereafter, when the petitioners came to know about the pendency of the suit, they filed an application under Order 1 Rule 10 CPC seeking impleading them as party/defendants on the ground that they are fully conversant with the facts of the case and their children are studying in the school in question and they wish to bring some evidence on record that is required for proper adjudication of the suit. Upon notice of the application, plaintiffs/non-applicants had filed reply to the application. The said application was dismissed by the Civil Judge (Sr. Division), SAS Nagar, Mohali vide the impugned order dated 26.10.2023. Hence, aggrieved of the same, the revision petitioners have knocked the doors of this Court by filing the present revision petition.

4. Learned counsel for the petitioners has contended that the trial Court has dismissed the application filed by the petitioners erroneously, without dealing with the entire facts and documents placed on record by the petitioners. The petitioners are having the material record which will be necessary to adjudicate the matter. He has further contended that the issue in the present case relates to the welfare of public/inhabitants at large and every effected inhabitant has a locus to maintain the application for impleadment. Only government and its departments have been made party to the *lis* but only inhabitants of the village are aware about the true facts of mode and nature of donation made by late Gurbaksh Singh. He has argued that this fact

has been overlooked by the trial Court that impleadment of the petitioners as defendants would facilitate the just decision in the matter.

5. I have heard learned counsel for the petitioner at length and perused the pleadings on record.

6. As per the petitioners/applicants, they are inhabitants of the village and their children are studying in the school, which is constructed upon the land which had been donated by one Gurbaksh Singh in the year 1980. They have claimed themselves to be in possession of certain material documents showing donation of the suit land by late Gurbaksh Singh to the village Panchayat for the purpose of construction of primary school. The plaintiffs are claiming possession of the suit land on the basis of registered Will dated 28.08.1997 allegedly executed in their favour by Ram Kaur wd/o Gurbaksh Singh who had allegedly inherited all the properties of Gurbaksh Singh after his death. The present suit has been filed for seeking possession of the suit land by the plaintiffs, over which the school has been constructed. The government departments, municipal corporation, SAS Nagar Mohali and head master of government Elementary School, village Kumbra have been arrayed as defendants in the present suit, for seeking the possession of the suit land.

7. The trial has rightly observed that as possession has been sought from defendants No.1 to 4, so the petitioners are not necessary and proper parties and they have no concern with the relief of mandatory injunction and possession as sought by the plaintiffs. If the petitioners are having in their possession any relevant documents regarding donation of the suit land by Gurbaksh Singh to defendants No.1 to 3 in the year 1980, then they are at

liberty to appear as witnesses at the appropriate stage, if so desired by the defendants.

8. In the light of the above, the impugned order is well reasoned order and does not suffer from any illegality or perversity, which may call for interference by this Court while exercising the revisional jurisdiction.

9. Dismissed.

(SUKHVINDER KAUR)
JUDGE

22.02.2024
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |