

CR-1132-2024 (O&M)

- 1 -

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

325

CR-1132-2024 (O&M)

Date of Decision: 16.05.2024.

Jaipal Singh and others

...Petitioners.

Versus

Bahadur Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Gurcharan Dass, Advocate
for the petitioners.

Mr. Kanwaljit Singh, Sr. Advocate with
Ms. Navyug Geet Brar, Advocate
for respondents No.1 and 2.

Mr. Ashok Kumar Bajaj, Advocate
for respondent No.3.

Mr. Aman Sharma, Advocate
for respondent No.4.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioners have challenged order dated 31.05.2023 (Annexure P-1) passed by learned Civil Judge (Junior Division) Ludhiana, vide which the application filed by the petitioners under Order 39 Rules 1 and 2 read with Section 151 of CPC was dismissed and further the petitioners have challenged order dated 19.01.2024 (Annexure P-2) passed by the First Appellate Court, vide which the appeal preferred by the petitioners against order dated 31.05.2023 has

CR-1132-2024 (O&M)

- 2-

been dismissed.

2. The brief facts relevant for the adjudication of the present revision petition are that the plaintiffs/ petitioners filed a suit for permanent injunction restraining defendants No.1 and 2 from taking forcible possession or converting and putting into use land measuring 1 kanal 8 marlas comprised of Khata No.278/ 280, Khasra No.391 as per jamabandi for the year 2001-02 and Khata No.297/ 292, Khatauni No.300, as per jamabandi for the year 2016-17, Hadbast No.157, Tehsil and District Ludhiana as shown red in the site plan, other than the park which has been left over by the colonizer Sh. Krishan Lal Chhabra and further restraining defendants No.1 and 2 from restricting and obstructing the plaintiffs and other residents of the locality from using the said part shown red and green in the plan attached as park and maintaining the same and further restraining defendant No.1 from alienating or creating any third party interest over the portion shown red in the site plan. Mandatory injunction was also sought for directing defendants No.3 and 4 to maintain the portion shown red and green in the plan as park and ensure that no portion shown red and green in the plan attached, is encroached by any person including defendants No.1 and 2 and further from removing the illegal raised part of the boundary wall and one room without doors and windows as shown in the plan attached with the plaint as red and green.

3. As per the case of the plaintiffs, the plaintiffs claim that they are residents of Panchsheel Vihar and are directly effected by the subject matter of the suit being residents of the locality. The detail of the sale deed have been given in the plaint vide which the plaintiffs claim to have

CR-1132-2024 (O&M)

- 3-

purchased their respective properties in the locality in question, which was carved out by one colonizer namely K.L. Chhabra. It is alleged that at the relevant time, one park measuring 1540 square yards was left, which is subject matter of the present litigation. In the park in question, one water tank and tubewell was also installed. Subsequently, K.L. Chhabra carved out a new colony namely Royal Homes and got the said colony sanctioned from defendant No.4 (GLADA) and mischievously depicted the park of the Panchsheel Vihar in the plan of the Royal Homes Society in order to avail benefit of leaving open space. It has been further alleged that K.L. Chhabra was having one company in the name of Sobhagya Knitfab Pvt. Ltd. 89B, BRS Nagar, Ludhiana and he used to purchase the land from the farmers on the basis of power of attorneys. He misused one attorney in the name of his son Anil Kumar and got executed one sale deed with regard to part of park in question in favour of his own company vide sale deed dated 25.05.2007. Thereafter, K.L. Chhabra further executed sale deed of the same plot on 03.09.2007 in favour of respondent No.1 vide sale deed dated 20.09.2007. It has been alleged that defendants No.1 and 2 are trying to encroach the property in question which is a park. They moved various complaints to the public authorities but no action was taken on account of influence of defendants No.1 and 2. It was alleged that defendants No.3 and 4 are proclaiming that the relevant file/ record is lost. On the basis of sale deed dated 03.09.2007 executed in favour of defendant No.1, defendants No.1 and 2 also tried to take illegal possession of the property in question and had raised boundary wall, however, the said construction was stopped by

CR-1132-2024 (O&M)

- 4-

defendants No.3 and 4 and even the wall was demolished. One FIR was also got registered by defendants No.1 and 2 on account of their influence against the residents of the society. Alongwith the suit an application for temporary injunction under Order 39 Rules 1 and 2 was also filed alleging that defendants No.1 and 2 have no right in the suit property as the same is a public park.

4. Defendants No.1 and 2 contested the said suit by way of filing their written statement by taking the plea that defendant No.1 is owner of the property measuring 847 square yards and is in exclusive possession over the same on the basis of legal/ valid sale deed dated 20.09.2007, which was executed by erstwhile owner M/s Sobhagya Knitfab Pvt. Ltd. through K.L. Chhabara, Director of the company for a valuable sale consideration of Rs.14,40,000/- and possession of the plot in question was also delivered to defendant No.1 and mutation was also sanctioned in his name. It was also alleged that in the year 2019, some persons proclaiming themselves to be office bearers of Panchsheel Vihar Society by taking undue benefit of old age of defendant No.1, who is 83 years old, started keeping an evil eye on his property by alleging it to be a park and started moving frivolous complaints.

5. Defendant No.3 alleged in its written statement that the colony in question is not part of the approved colony, so in the records of Municipal Corporation, Ludhiana, there is no approved plan of the area. The property in dispute is shown as park/ water works in the layout plan of GLADA, but GLADA had not sent original approved layout plan of colony

CR-1132-2024 (O&M)

- 5-

and they have also sent incomplete record regarding the ownership of the colony, so the accuracy of the plan cannot be verified.

6. Defendant No.4 GLADA in its written statement has alleged that they are not necessary party to the present proceedings because as per the notification dated 24.06.2010 issued by the Government of Punjab, the competent authority to deal with the colonies falling within the jurisdiction of Municipal Corporation, Ludhiana, is the Commissioner of Municipal Corporation, Ludhiana. So they have no right to take any action regarding the present controversy.

7. Reply to the application for temporary injunction under Order 39 Rules 1 and 2 CPC was also filed by the defendants/ respondents.

8. The aforesaid application under Order 39 Rules 1 and 2 read with Section 151 CPC filed by the plaintiffs was dismissed by the trial Court, vide order dated 31.05.2023. The petitioners/ plaintiffs preferred an appeal before the first Appellate Court, Ludhiana, which was also dismissed, vide judgment dated 19.01.2024. Aggrieved against the said judgment, the plaintiff/ revision petitioners has knocked the doors of this Court by way of present revision petition.

9. During the course of arguments, both the counsel for the parties are ad idem that they will be satisfied if the trial Court is directed to dispose of the instant case in a time bound manner.

10. I have heard learned counsel for the parties and have gone through the relevant record.

11. In view of the facts and circumstances of the present case and

CR-1132-2024 (O&M)

- 6-

above, it will be appropriate if trial Court is directed to provide three effective opportunities to the petitioners for concluding their evidence and thereafter, provide three effective opportunities to each of the defendants for adducing their evidence. The trial Court is also directed to dispose of the instant case, expeditiously as per law preferably within a period of eight months from the date of receipt of copy of this order.

12. Revision petition is allowed in the aforesaid terms.

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

(SUKHVINDER KAUR)
JUDGE

16.05.2024.

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