

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

128

CR-1475-2024 (O&M)
Date of decision:13.03.2024

Satish Kumar

... Petitioner

Vs.

Hans Raj

... Respondent

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Ajay Pal Singh Rehan, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. Instant revision petition has been filed by the petitioner/defendant against the order dated 06.01.2024 passed by the Civil Judge (Jr. Division), Gurdaspur, whereby an application filed by the petitioner/defendant for adjourning the suit sine die has been dismissed.

2. The facts that are relevant for disposal of the present revision petition are that the respondent/plaintiff filed a suit against the petitioner/defendant for recovery of Rs.2,49,813/- as mesne profits alleging unauthorized use and occupation by the petitioner/defendant of land measuring 5 kanals 12 marlas comprised in rectangle No.18, killa No.24/2 (5-12), situated in the revenue estate of village Radhan, Tehsil and District Gurdaspur as entered in the jamabandi for the year 2018-19, for period *kharif 2014 to hari 2021*, alleging therein that the defendant had illegally made criminal trespass into the suit land and forcibly started cultivating it. There never existed any relationship of landlord and tenant

between the parties at any point of time and possession of the defendant over the suit land is like that of a trespasser. So, the plaintiff being owner is entitled to claim mesne profits of the suit land from the defendant for the period *kharif 2014 to hari 2021*.

3. Upon notice of the said suit, defendant/petitioner appeared and contested the suit by filing the written statement by pleading that the petitioner is owner in possession over the suit land on the basis of sale deed executed on 24.06.1987 by one of the co-sharers, namely, Daulat Ram. In the said suit, the petitioner/defendant moved an application for adjourning the present suit sine die while alleging that the partition order has not attained finality and is still *sub judice* as CWP-17277-2010 titled as Subhash Chander & another Vs. State of Punjab is pending before this Court. So it was prayed that the present suit be not decided until or unless the said writ petition pending before this Court is decided. The said application of the petitioner/defendant was dismissed vide the impugned order dated 06.01.2024. Hence, the revision petitioner/defendant has knocked the doors of this Court by way of filing of the present revision petition.

4. Learned counsel for the petitioner has contended that the trial Court has not appreciated the fact that the proceedings in the present case are liable to be adjourned sine die because the partition proceedings being pleaded and relied upon by the respondent/plaintiff have not attained finality and CWP-17277-2010 filed by the L.Rs. of the vendor of the petitioner against the partition order dated 22.09.2004 is pending before

this Court. The lower Court has not further appreciated that another suit pertaining to the same suit property pending between the parties has been adjourned sine die vide order dated 24.01.2017 upon an application filed by the respondent on the ground of pendency of CWP-17277-2010. He has submitted that an application for partition was filed and on 27.12.1977 the same was allowed and the joint land was partitioned on 20.02.1980 by the Assistant Collector Grade-I, Gurdaspur. As no appeal or revision was filed against the partition order dated 20.02.1980, so this order attained finality. The present respondent, namely, Hans Raj, who was co-sharer of the above partition proceedings, filed an application for review of partition order dated 20.02.1980 passed by the Assistant Collector, Grade-I, Gurdaspur. On the basis of order dated 17.06.1997 passed by the Financial Commissioner, Punjab, respondent filed an application for review of partition order dated 20.02.1980 before the Assistant Collector, Grade-I, Gurdaspur, who totally changed and modified the earlier partition order dated 20.02.1980 and passed the fresh partition order dated 22.09.2004 and the appellate/revisional orders have also been impugned in CWP-17277-2010 filed by the L.Rs. of the vendor, namely, late Daulat Ram. He has further submitted that the petitioner was never impleaded as a party in the partition proceedings decided by the Assistant Collector, Grade-I, Gurdaspur vide order dated 22.09.2004, so the said partition proceedings are not binding upon the petitioner. Since the petitioner had not been impleaded as a party in the partition proceedings, so the petitioner filed Civil Suit No.1187 of 2016 against the present respondent

seeking declaration that the petitioner is co-owner to the extent of 8 kanals 10 marlas and the partition order dated 22.09.2004 is not binding upon the rights of the petitioner. He has argued that the trial Court has not appreciated the fact that in the facts and circumstances of the case, the proceedings in the present suit between the parties are liable to be adjourned sine die, like the proceedings in Civil Suit No.1187 of 2016 pending between the parties pertaining to the same very suit property being adjourned sine die.

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

6. From the record, it transpires that the plaintiff has filed the present suit against the defendant for recovery of mesne profits for unauthorized use and occupation of land measuring 5 kanals 12 marlas which was allegedly allotted to the plaintiff in the partition order passed by the Assistant Collector, Grade-I, Gurdaspur. Pendency of CWP-17277-2010 is not disputed. Again it is the admitted fact that neither any stay order has been passed by this Court against the orders passed by the revenue Courts nor any stay order had been passed by this Court in the said writ petition. The trial Court has rightly held that mere pendency of a writ petition before this Court is not a ground for adjourning the matter sine die till the decision of the said writ petition, when there is no specific stay order regarding the same. So far as adjourning the case sine die in the other suit is concerned, every case has its own facts and in the facts and circumstances of the present case, the proceedings in this case are not

required to be adjourned sine die till the decision of CWP-17277-2010.

7. In the light of the above, the impugned order is a well reasoned order and does not suffer from any illegality or perversity.

8. Being bereft of any merit, the present revision petition is dismissed.

(SUKHVINDER KAUR)
JUDGE

13.03.2024
harjeet

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