IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR-1961-2023 (O&M)
Date of decision: 19.01.2024

GURCHARAN SINGH AND ORS. **..Petitioners**

Versus

SAPATTER SINGH (DECEASED) THROUGH LRS. AND ORS. **..Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S. Rangi, Advocate
Ms. Sukhan Rangi, Advocate
and Mr. Fateh Sahota, Advocate
for the petitioners.

Mr. A.P. Kaushal, Advocate
for LRs of respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. The dispute in the present case is with regard to the alleged public property. The petitioners' application under Order I Rule 10 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC") filed in the suit filed by the plaintiff for grant of decree of permanent injunction has been dismissed. The petitioners claim to be whistle blowers. They want to save '*shamlat'* land (common purpose land) of the area. The plaintiff (respondent Sh. Sapatter Singh) is stated to be brother of a former Municipal Councillor. He claims to have purchased the property from Sh. Darab Singh (Nambardar), who is stated to have sold the share of *shamlat deh* land.

2. This revision petition challenges the correctness of the order dismissing the petitioners application, passed by the trial Court. The learned counsel representing the petitioners submits that Municipal Council has been deliberately failing itself to properly contest the case. It has been submitted

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that the Municipal Council after availing three opportunities, failed to file reply to the application for grant of temporary injunction resulting in order dated 03.08.2022, whereby, ad interim protection was granted to the plaintiff by the trial Court. Thereafter, the reply was filed and after taking repeated adjournments, the application for grant of temporary injunction was disposed of with the following observations:-

> *"7. The plaintiff in order to establish his case has placed on file copy of site plan, copy of mutual compromise, receipt and exchange deed. On the other hand, Municipal Council Kurali has produced on file notices issued to the plaintiff. The stand of Municipal Council Kurali is that suit property should be demarcated. I consider that Municipal Council Kurali has the control and management of the public properties and if plaintiff is found into the public property then he has no prima-facie case. Thus, the plaintiff should not create hindrance in conducting demarcation. Municipal Council Kurali should act according to law only and if after the demarcation the suit property is found to be in possession of the plaintiff, then the plaintiff has no right to seek injunction against the defendants. Hence, the application in hand is disposed of with the observation that defendant Municipal Council Kurali should not be restrained from taking the legal action as per law. It is desirable that demarcation of the suit property be conducted. Plaintiff has no prima-facie case to usurp the public property and he should be fair enough to co-operate with the legal body. With these observations, application in hand is disposed off."*

3. It is submitted by the learned counsel representing the petitioners that till today, the Municipal Council has not taken any steps to get the area demarcated, though, a period of more than one year has passed.

4. On the other hand, the learned counsel representing the legal representatives of respondent No.1 herein contends that the plaintiff is *dominus litis* and the petitioners contested the allegations against the

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plaintiff's brother but lost. He submits that the application has been filed to settle the political score.

5. This Court has considered the submissions while analyzing the arguments of the learned counsel representing the parties.

6. The learned trial Court while disposing of the application under Order XXXIX Rule 1 and 2 of the CPC, granted only limited or temporary injunction. It was observed that after the demarcation of the suit property, the Municipal Council, Kurali, Punjab, found that the property in dispute is a public property and the Municipal Council shall not be restrained to take legal action in accordance with law. Despite the aforesaid development, as per the case of the petitioners, no action has been taken by the Municipal Corporation until now.

7. The Courts are expected to save the public properties from encroachments at the hands of land grabbers. The petitioners are only praying for their impleadment in the suit so as to enable them to put-forth before the trial Court the real dispute between the parties. This Court is of the considered view that the Municipal Council, Kurali, Punjab, is only buying time to help the plaintiff. The second defendant is stated to be the cousin of the plaintiff.

8. Keeping in view the aforesaid facts and discussion, the impugned order dated 04.10.2022, is set aside being erroneous and the petitioners are impleaded as defendants.

9. In the peculiar facts of the case, the trial Court is requested to depute a Senior Revenue Official to demarcate the land and thereafter, proceed with the matter expeditiously in accordance with law.

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10. Disposed of accordingly.

11. All the pending miscellaneous applications, if any, are also disposed of.

January 19th, 2024 **(ANIL KSHETARPAL)**
Ay **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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