

CR-1822-2024 (O&M)

- 1 -

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

133

CR-1822-2024 (O&M)

Date of Decision: 21.03.2024.

Lehmber Singh

...Petitioner.

Versus

Paramjit Kaur and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Sahil Soi, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 11.03.2024 (Annexure P-7) passed by learned District Judge, vide which appeal preferred by the petitioner/ plaintiff against the order dated 12.09.2023 (Annexure P-6) passed by the trial Court, was partly allowed and order dated 12.09.2023 was modified to the extent that no status quo can be ordered with regard to Khasra No.18//12 (1-0).

2. The brief facts relevant for the adjudication of the present revision petition are that the petitioner/ plaintiff filed a suit for permanent injunction for restraining the defendants from interfering in the peaceful and lawful possession of the plaintiff and dispossessing him forcibly from the land as detailed in the head note of the plaint. It was alleged that the plaintiff alongwith others has been recorded as co-sharer in Khewat Khatoni

CR-1822-2024 (O&M)

- 2-

No.182/194 and 172/ 184, regarding which there is no dispute between the plaintiff and other co-sharers. But the plaintiff is exclusive owner in possession of Khasra No.18//12 (1-0) and his possession has not been interfered by anybody since consolidation. The plaintiff is owner in possession over the said land for the last more than 50 years. At the time of consolidation, grandfather of the plaintiff became owner in possession over the suit land thereafter, father of the plaintiff and thereafter plaintiff himself is in physical possession of the suit land and presently the fodder crop of plaintiff is standing over the suit land. It was alleged that the consolidation took place in the village in the year 1967 but after consolidation in year 1973-74 Khasra No.18//12 (1-0) could not be mentioned inadvertently in the fard jamabandi. But the plaintiff is owner in possession of this number to the knowledge of all the local inhabitants and Gram Panchayat village Kakra Kalan, since the time of the consolidation. Defendant No.1, who remained Sarpanch of the Gram Panchayat village Kakkra Kalan, came to know about non entering of this Khasra number in the jamabandi for the year 1973-74 and is bent upon to take forcible possession of khasra number by taking undue advantage of non entering of this khasra number in the jamabandi and he wants to construct Shamshan Ghat on the suit property. Defendant No.2 is posted in the police department as ASI and he is threatening the plaintiff that he would involve him in some false case if he would not vacate the suit property.

3. Alongwith the plaint, the petitioner/ plaintiff also filed an application under Order 39 Rules 1 and 2 CPC for grant of ad-interim

CR-1822-2024 (O&M)

- 3-

injunction.

4. After notice, the respondents/ defendants appeared and filed their written statement, wherein it was denied that the plaintiff was owner in possession of Khasra No.18//12 (1-0) comprised in Khewat/ Khatoni No.188/215. Rather the true facts are that there is cremation ground in Khasra No.18//12 (1-0) over which the cemented shed has been built by the villagers. Earlier, this khasra number was missing in the revenue record/ fard jamabandis since 1973-74 but now fard badar No.5 has been approved by the revenue authorities with the intention to grab the property of present khasra number and the present false and frivolous suit has been filed. It was also alleged that the demarcation has also been got conducted which clearly shows that the Khasra No.18//12 (1-0) is cremation ground.

5. Vide order dated 12.09.2023, the trial Court allowed the application filed under Order 39 Rules 1 and 2 CPC and defendants were restrained from causing interference in the peaceful possession over the 1/24 share of plaintiff over the land comprising in Khewat/ khatoni No.182/ 194 bearing Khasra Nos.5//17/2/2 (0-14), 18//7/2 (2-5), 18//8 (1-8), 18//13/1 (4-13), 18//13/2 (3-0), 18//14/1 (1-12); 1/6 share of the plaintiff in the land comprised in Khewat/ Khatoni No.172/ 184, bearing Khasra Nos.5//17/2/1 (2-0), 17//20/1/2 (4-4), 18//14/2/2 (2-0), 18//15/2 (2-0). Regarding Khasra No.18//12 (1-0), the plaintiff as well defendants were directed to maintain status quo qua possession and also restrained from changing its existing position in any manner i.e. by construction, by filling of sand or in any other manner till the final decision of the present case.

CR-1822-2024 (O&M)

- 4-

6. The appeal against order dated 12.09.2023 of trial Court, preferred by defendants No.1 and 2 was partly allowed and the aforesaid order of the trial Court was modified and status quo order passed by the trial Court qua Khasra No.18//12 (1-0) was set aside. So, aggrieved by the said order, the petitioner knocked the doors of this Court by way of filing the present revision petition.

7. Learned counsel for the petitioner has contended that the petitioner has been able to prove his prima facie regarding case Khasra No.18//12 (1-0). The trial Court had only passed an order of status quo, keeping in view the fact, there was a fard badar entry in the jamabandi. But this fact has not been appreciated by the Appellate Court. He has further contended that the respondents claim that there is cremation ground in the land in dispute, whereas the petitioner claims that he is in possession of the said land. In this situation order of status quo would not defeat anybody's right and will avoid any further dispute. He has argued that the impugned order is based on a demarcation report which is not correct and the petitioner was not associated while preparing the said demarcation report. The cremation ground of the village is existing in Khasra No.42. He has contended that as such the order of the Appellate Court is liable to be set aside to the extent of modification regarding relief pertaining to Khasra No.18//12 (1-0). In support of his contentions, he has placed reliance upon the judgment of this Court in *Sharanjit Singh Vs. Raghu Nath, 2013 (25) R.C.R. (Civil) 839.*

8. I have heard learned counsel for the petitioner and have gone

CR-1822-2024 (O&M)

- 5-

through the relevant record.

9. As per the entries incorporated in the revenue record, the plaintiff is in possession as a co-sharer over the other khasra numbers and only khasra No.18//12 (1-0) is the disputed khasra number. As per the plaintiff, he is in exclusive possession over the said khasra number since consolidation and now fard badar entry has also been made. As per the jamabandi on record, qua the disputed khasra number, mustarkan malkan has been reflected in the ownership column, The demarcation report dated 31.08.2023 of Khasra No.18//12(1-0) has also been placed on record which finds mention that there exists cremation ground in Khasra No.18//12 (1-0). So it has been rightly held by the Appellate Court that as no prima facie case is made out in favour of the plaintiff qua Khasra No.18//12 (1-0), so status quo order should not have been passed qua this Khasra No.18//12 (1-0).

10. So far as the case law cited by counsel for the appellant in Sharanjit Singh's case (supra) is concerned, it is not applicable to the facts of the present case, as in the said case, both the parties were claiming possession as well as title over the disputed land by way of registered sale deeds and it was difficult for the Court at the preliminary stage to reach at the conclusion as to which of the parties was in possession over the suit property, so order of status quo was passed.

11. Thus, there being no illegality or infirmity in the impugned order no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

12. All pending applications, if any, also stand disposed of

CR-1822-2024 (O&M)

- 6-

accordingly.

13. Nothing expressed hereinabove shall be construed as an opinion on the merit of the case.

(SUKHVINDER KAUR)
JUDGE

21.03.2024.
komal

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