

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

113

CR-2151-2024 (O&M)
Date of decision: 19.04.2024

Sheel Kumar

... Petitioner

Vs.

Ram Kishan (deceased) through his L.Rs. & others ... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Ravinder Phogat, Advocate for the petitioner.

...

SUKHVINDER KAUR, J. (ORAL).

1. Instant revision petition has been filed by the petitioner/defendant for setting aside the order dated 15.05.2023 (Annexure P-2), whereby the application filed by the plaintiff/respondents No.1 & 2 for providing police help for implementation of injunction order and for removing the barbed fencing has been allowed. A further prayer has been made for expeditious disposal of the present civil suit and to decide the application filed by the plaintiffs for grant of police help at the time of final disposal of the suit.

2. Brief facts which are relevant for adjudication of the present revision petition are that the plaintiff/respondents No.1 and 2 filed a suit for partition of *gair mumkin* land measuring 1 kanal 19 marla situated in mustil or killa No.140 (0-5), 194/2 (0-16) or 195/2 (0-18 min khewat No.//57 min khatauni No.69 as per jamabandi for the year 2015-16 situated within the estate of village Badhwana, Tehsil and District Charkhi Dadri and further suit for permanent injunction for restraining respondents No.1 to 3 from

interfering in the use of passage and not to stop plaintiffs to use the passage in peaceful way, till the partition of the suit land and also for restraining them from any type of interference and allow the plaintiffs to use the passage in peaceful manner.

3. On issuing notice of motion, the petitioner/defendant No.1 appeared and filed his reply denying the averments made in the suit filed by the plaintiffs. Thereafter on 13.02.2017, the trial Court had directed plaintiff, defendants No.1, 2, 5 and 6 to maintain status quo regarding the passage in question till further orders. After passing of the order dated 13.02.2017, the plaintiffs/respondents No.1 and 2 filed an application for providing police help for implementation of injunction order dated 13.02.2017 (Annexure P-1) after a gap of more than 5 years. The said application was allowed by the trial Court vide order dated 15.05.2023. Thereafter plaintiffs/respondents No.1 and 2 filed another application (Annexure P-3) for providing police help for removing the barbed fencing. The petitioner filed reply to the said application. The same is still pending adjudication. Hence, the petitioner has knocked the doors of this Court by way of filing of the present revision petition for setting aside the impugned order dated 15.05.2023 passed by the Civil Judge (Sr. Division), Charkhi and for directing the trial Court to dispose of the application at Annexure P-3 as well as civil suit filed by the plaintiffs expeditiously.

4. It has been contended by learned counsel for the petitioner that the respondents/plaintiffs are filing the applications again and again only to linger on the matter, despite the suit being in action plan. They are not facing problem of passage because the land of the plaintiffs is adjoining to *pucca*

road and they do not need any other path. They have filed the suit only to grab the land of the petitioner. He has further contended that the suit is not maintainable as some of the co-sharers have already constructed their houses in their shares since long time and since then all the co-sharers are in the possession of their respective shares. He has argued that the plaintiffs/respondents No.1 and 2 have filed the application at Annexure P-3 for grant of police help for removing the wire fencing whereas the police help had already been granted to them for the same. He has urged that there is no fencing in the passage of the plaintiffs and there is no path or common path of any co-sharer. However, during the course of arguments, learned counsel for the petitioner has submitted that he would be satisfied if a direction is issued to the trial Court to decide the application (Annexure P-3) as well as the civil suit filed by the plaintiffs pending before it in a time bound manner.

5. Copies of the zimni orders passed in the suit preferred by the plaintiffs before the trial Court have been produced on record. From the perusal of these orders, it transpires that the civil suit as well as the application (Annexure P-3) filed by the petitioner is pending adjudication before the trial Court.

6. So keeping in view the above, the trial Court is directed to decide the application (Annexure P-3) as well suit filed by the plaintiffs expeditiously, in accordance with law after hearing both the parties, preferably within a period of two months from the date of receipt of a copy of this order.

7. Revision petition is disposed of in the aforesaid terms.

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

19.04.2024
harjeet

(SUKHVINDER KAUR)
JUDGE

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