

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 1784 of 2022 (O&M)

Date of Decision: 05.03.2024

Santram alias Santraj

... Petitioner(s)

Versus

Sudhan

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sanjay Mittal, Advocate
for the petitioner(s).

Mr. Kul Bhushan Sharma and Mr. Abhishek Sharma,
Advocates, for the respondent.

Anil Kshetarpal, J.

1. In this revision petition, the plaintiff assails the correctness of the order passed by the First Appellate Court while allowing the defendant’s appeal against the order passed by the Trial Court granting injunction in favour of the plaintiff. The parties to this litigation are the successors-in-interest of late Sh. Prabhu Singh.
2. The dispute is with regard to the plot measuring 10 marlas comprised in khasra No. 292/1 which is *Gair Mumkin Gatwar*. In other words, it is not with respect to the agricultural land.
3. On one hand, the plaintiff/petitioner claims to be in exclusive possession of the suit property, whereas it is the case of the defendant that the plaintiff is not in exclusive possession of the same. The Trial Court’s order granting injunction to the plaintiff, has been vacated by the First

Appellate Court.

4. The learned counsel representing the petitioner contends that the predecessor of the respondent has already sold his entire share and therefore, he is not left with any right, title or interest in the disputed property.

5. Per contra, the learned counsel representing the respondent submits that on perusal of mutation No. 2803, 3151, 3391, 2862, 2856, 2595, 3482 and 2358, it is evident that the predecessor-in-interest of the defendant has already sold various parcels of the land, however, no part of khasra No. 292/1 was sold. He further submits that the parties are co-sharers and hence, the injunction should not be granted.

6. This Court has considered the submissions of the learned counsel representing the parties.

7. It is evident that the predecessor-in-interest of the defendant has not sold any part of the plot comprised in khasra No. 292/1. The predecessor of the defendant has sold his share in the agricultural land, however, the suit land is not the agricultural land. Moreover, the First Appellate Court, in the facts and circumstances of the case, has drawn a conclusion which does not suffer from any perversity.

8. Keeping in view the aforesaid facts, no ground is made out to interfere with the impugned order. Hence, the present revision petition is dismissed.

9. Needless to observe that the observations made by this Court or both the Courts below, while deciding the application under Order XXXIX

Rule 1 and 2 CPC, shall not be construed as final expression of opinion on

the merits of the case.

10. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 05, 2024
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No