



## IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-3908-2023 (O&M)  
Reserved on: 29.07.2024  
Pronounced on: 02.08.2024

**RAJBIR SINGH**

.... PETITIONER

**Vs.**

**M/S ADANI AGRI LOGISTICS PANIPAT LTD. AND OTHERS**

.... RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present:- Mr. Gaurav Jaglan, Advocate, for the petitioner.

Mr. Vijay Kumar Jindal, Sr. Advocate, with  
Mr. Pankaj Gautam, Advocate, for the caveators-respondents.

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**DEEPAK GUPTA, J.**

Petitioner herein is the plaintiff in Civil Suit bearing CNR No. HRPP02-000191-2022 titled as '*Rajbir Singh Vs. Rohtas etc.*' pending in the Court of Id. Additional Civil Judge (Sr. Division), Panipat. He is aggrieved by the order dated 17.02.2023 (*Annexure P20*) passed by the Court of Id. Additional District Judge, Panipat, whereby his application under Order 39 Rules 1 and 2 CPC for temporary injunction, regarding property in dispute, has been dismissed, by allowing the appeal bearing CNR No. HRPP01-015358-2022, against the order dated 05.11.2022 (*Annexure P18*), which was passed by the Id. Additional Civil Judge (Sr. Division), Panipat, whereby the application had been allowed.

2. Land in dispute is comprised in Khewat No.17, Khatouni No.22 Khasra No.2541/2 (3-9), 2549 (3-15), 2550 (3-0), 2551 (3-0) and 2552 (3-0) total measuring 16 bigha 4 biswas situated in the revenue estate of Village Jodhan Kalan, Tehsil Israna, District Panipat.

3. As per the Jamabandi, plaintiff-Rajbir, his brother Rohtas and father Tek Ram are recorded to be co-sharer in the said land. Later, Tek Ram and Rajbir had transferred 3 bigha each of their share in favour of Nirmala, the sister of Rohtas and the daughter of Tek Ram and this way Rohtas, Rajbir and Nirmala became co-owner in possession of the land. 923/2141 share, which works out to be 7 bigha 1

biswas, in the disputed land has been sold by defendant No.1-Rohtas to defendant No.2-M/s Adani Agri Logistics Panipat Ltd. by way of impugned sale deed No.1295 dated 14.12.2017; whereas, the remaining shares in these Khasra numbers have been sold by plaintiff-Rajbir Singh and his sister Nirmala to the same vendee i.e. M/s Adani Agri Logistics Panipat Ltd. by way of sale deed No.63 dated 09.04.2019.

4. Plaintiff has challenged the sale deed as executed by defendant No.1 in favour of defendant No.2 by claiming that by virtue of the previous family settlements, it is only he (plaintiff), who was in exclusive possession of the disputed Khasra numbers and had become owner thereof and that this fact was admitted by defendant No.1 in the previous litigation i.e. partition application as well as civil suit. He also relies his claim upon a family settlement of 1996.

5. Defendant No.1-Rohtas denied that suit property was part of the family settlement. However, he did not dispute the factum of family settlement.

6. Defendant No.2-M/s Adani Agri Logistics Panipat Ltd. strongly opposed the suit as well as the application for temporary injunction by submitting that it has purchased the entire share of the three co-sharers in the property in dispute and that the two brothers in collusion with each other and in order to stall the infrastructure project of defendant No.2 had instituted the present suit.

7. Although the trial Court of Id. Additional Civil Judge (Sr. Division) had allowed the application under Order 39 Rules 1 & 2 read with Section 151 CPC, but the appeal filed by defendant No.2, has been accepted and the application of the plaintiff has been dismissed by Id. Additional District Judge, Panipat by way of impugned order.

8. Assailing the aforesaid order passed by Id. Additional District Judge, Panipat, it is contended by Id. Counsel for the plaintiff (petitioner herein) that the said order is not sustainable because the Appellate Court could not have interfered in the order of the Civil Judge unless it was perverse or illegal. Besides, if two views are possible and Id. Civil Court has taken one view, the Additional District Judge could not have substituted his view in place of the view taken by the Civil Judge. Id. counsel has relied upon the following decisions of the Hon'ble Supreme Court:-

1. *Dalpat Kumar Vs. Prahlad Singh*, Law Finder Doc ID # 51373.
2. *Maharwal Khewaji Trust (Regd.) v. Baldev Dass*, Law Finder Doc Id # 78730.

3. *Wander Ltd. And Another v. Antox India P. Ltd., Law Finder Doc Id # 197677.*
4. *Mohd. Mehtab Khan and others v. Khushnuma Ibrahim and others, Law Finder Doc ID # 414558.*

9. Refuting the aforesaid contention, Id. counsel for respondent No.2 - M/s Adani Agri Logistics Panipat Ltd. has defended the impugned order of Id. Additional District Judge, Panipat by submitting that the same is well reasoned, speaking and based upon the proper appreciation of material on record.

10. After hearing Id. counsel for both the sides, it appears to this Court that this *lis* is nothing but a result of pure greed on the part of plaintiff-Rajbir Singh, who having sold land out of Khasra numbers, which he himself claims to be in exclusive possession of his brother Rohtas-defendant No.1 to defendant No.-2 M/s Adani Agri Logistics Panipat Ltd. is now challenging the sale deed dated 14.12.2017 executed by Rohtas in favour of defendant No.2, by which land of Khasra numbers claimed by the plaintiff to be in his exclusive possession, has been sold.

11. In ***Maharwal Khewaji Trust (Regd.)***, it has been held by Hon'ble Supreme Court that an application for grant of interim injunction to restrain defendant from alienating or changing the nature of the suit property must be granted unless an irreparable loss or injury is shown by the defendant to be caused in case the injunction is granted. Change of nature or alienation of suit property may lead to loss or damage being caused to the party, who may ultimately succeed and lead to multiplicity of proceedings. Besides, as held by Hon'ble Supreme Court in the case of ***Dalpat Kumar (Supra)***, Order 39 Rules 1 (c) CPC primarily concerns with preservation of the property in dispute till the legal rights are adjudicated. *Prima facie* case by itself is not sufficient to grant injunction. The Court must be satisfied that non-interference of the Court would result in irreparable injury, an injury which cannot be adequately compensated by way of damages.

12. Further, as per the settled preposition of law, relief of injunction is an equitable and discretionary relief, though exercise of discretion to grant or refuse the injunctory relief is based on well-established principles of *prima facie* case, irreparable injury and balance of convenience. At the same time, once discretion is exercised by the trial judge of the first instance, the interference by the Appellate Court is not justified, unless the exercise is shown to be arbitrary, capricious,

perverse or ignoring the settled principles of law. Reliance can be placed on ***Wander Ltd. and another (Supra)***. Taking similar view in the case of ***Mohd. Mehtab Khan (Supra)***, it has been held by Hon'ble Supreme Court that once discretion has been exercised by the trial Court, the Appellate Court should not have interfered with the exercise of the said discretion by the trial judge, unless such exercise was found to be palpably incorrect or untenable. In case reasons that weighed with the trial judge, do not indicate that the view taken is not a possible view, the Appellate Court should not substitute its view in the matter merely on the ground that in its opinion, the facts of the case call for a different conclusion. As long as the view of the trial Court is a possible view, the Appellate Court should not interfere with the same following the virtually settled principles of law.

13. Keeping in mind the legal position as above, it is required to be seen as to whether the First Appellate Court was justified in interfering in the order passed by the trial judge, whereby the application under Order 39 Rules 1 & 2 CPC for interim injunction was allowed.

14. In order to support his case to the effect that he is owner in exclusive possession of the suit land, as has been sold to defendant No.2, the plaintiff has firstly relied upon a family settlement of 1996 culminating into a decree passed in civil Suit No.1143 of 1996 decided on 21.07.1997. Although, the judgment and decree of 1997, as referred by the plaintiff, is not produced on record, but the copy of compromise which was placed on record in that suit is produced as *Annexure P2*, which would indicate that this compromise has nothing to do with the suit property. This compromise shows that defendant No.1-Rohtas was given a house situated in Model Town, Panipat in the name of Tek Ram i.e. their father located in khasra No.2735, 2737 and 2738 min (east) and 2739/3 valued at ₹10 lakh. It is also referred in this compromise that Rajbir Singh and his brother Rohtas had given 2 Killa each of their land to their father-Tek Ram for cultivation for life and the said land as given to their father is comprised in Khasra Nos.2352, 2353, 2354 and 2457. Thus, none of the disputed Khasra numbers (subject matter of present suit) form part of the compromise and as such, plaintiff cannot draw any support from this document.

15. Proceeding further, plaintiff-Rajbir Singh then relied upon a plaint (*Annexure P6*) titled 'Rohtas vs. Tek Ram & Other', which was filed by defendant-Rohtas in a Civil Suit No.146 of 2016, in which he had claimed that in a family

settlement of 1997, Rajbir Singh and his father were in possession of the land comprised in Khasra Nos.2348/1, 2349, 2350, 2334, 2335, **2541/2, 2549, 2550, 2551 & 2552**; whereas he (Rohtas) was in possession of Khasra No. 2352/2, 2353/2, 2354/3, 2457, 2489, 2490/2, 2491, 2492 and 2493. It is contended that same assertion was also made by Rohtas in an application of partition (*Annexure P5*). It is contended that in both these documents, defendant-Rohtas had admitted the plaintiff to be in exclusive possession of the disputed land involved in the present suit apart from other land.

16. There is no merit in the aforesaid contention, as it is rightly observed by Id. Additional District Judge in the impugned order that the Civil Suit N: 146 of 2016, as referred by the plaintiff, did not culminate into any decree. Similarly, the partition application also did not result in actual partition of the joint land as it did not culminate into final proceedings. Any such settlement was never reflected in the revenue record. As such, plaintiff cannot draw any support from those documents.

17. Apart from above, let it be assumed that plaintiff-Rajbir Singh was in exclusive possession of the disputed land as owner as is claimed by him, he is required to do equity, if he is seeking equity. In case the stand of the plaintiff is accepted, it means that defendant-Rohtas was in possession of Khasra Nos. 2489, 2490/2, 2491, 2492 and 2493. By virtue of sale deed No.63 dated 9.4.2019, plaintiff-Rajbir along with his sister not only sold their share in the disputed land to defendant No.2, they also sold the land out of khasra No.2490/2, 2493, 2489, 2491 and 2492 besides other Khasra numbers, which as per the own case of the plaintiff had come to the exclusive share of defendant No.1. Id. Additional District Judge has rightly observed that a person, who seeks equity must do equity. By selling the land, which as per the own case of the plaintiff, had come to the exclusive possession/ownership of his brother Rohtas, he cannot now complaint that his brother has sold the land, which had come to his share.

18. Apart from above, it is worth noticing that as per the own case of the plaintiff, the entire disputed land has since been sold, some share by the plaintiff and remaining by the defendant along with his sister. Worst to worst, if ultimately after trial, it is found that plaintiff was entitled to the entire suit land and not the share only, which has already been sold by defendant No.2, he would be entitled to

the proportionate sale consideration, but for that reason, the infrastructure project of defendant No.2 worth ₹100 crore cannot be stalled. Defendant No.2 after paying huge consideration has purchased the suit land from the two brothers i.e. plaintiff & defendant and their sister Nirmala by paying the huge amount. They have started an infrastructure project on the said suit land. No prohibitory injunction can be granted involving such a project as per Section 20A of the Specific Relief Act. Similar view has been taken by Delhi High Court in ***Hari Ram Nagar Vs. Delhi Development Authority, 2019 SCC Online Delhi 9747***; and ***Roadways Solution Infra Structure Limited Vs. National Highway Authority of India 2023 SCC Online Delhi 2082***.

19. On account of the entire discussion as above, it is held that the Id. Additional District Judge was correct in interfering in the order passed by the trial Court and has rightly dismissed the application of the plaintiff under Order 39 Rules 1 & 2 CPC, as grant of injunction will cause irreparable loss to the defendant No.2. Neither the balance of convenience is in favour of the plaintiff nor the *prima facie* case is in his favour. Even equity is not in his favour as has been discussed above.

20. Consequently, the present revision is hereby dismissed.

02.08.2024  
*Vivek*

(DEEPAK GUPTA)  
JUDGE

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|----------------------------|-----|
| Whether speaking/reasoned? | Yes |
| Whether reportable?        | No  |