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

CR-3109-2024 (O&M)

Date of Decision : 17.12.2024

State of Himachal Pradesh

... Petitioner(s)

Versus

Robin Bhasin & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amit Jain, Senior Advocate with
Mr. Deepak Basatia, Advocate
Mr. Aryaman Thakur, Advocate and
Mr. Anupam Mathur, Advocate for the petitioner.

Mr. Puneet Jindal, Senior Advocate with
Mr. Parveen Chauhan, Advocate for the respondent No.1.

ALKA SARIN, J. (Oral)

1. The present revision petition has been preferred by the defendant-petitioner challenging the order dated 19.03.2024 passed by the Trial Court and the order dated 08.04.2024, whereby the First Appellate Court did not deem it appropriate to grant interim stay at that stage.

2. Before advertng to the merits of the present case, certain facts need to be noticed as the present case has a chequered history. Originally one Moti Ram was the original owner of about 30 bighas of land in Yamunanagar. On 28.01.1925 the said land was leased to the Raja of Jubbal Estate as he then was. The lease rights were taken over by the Government of Himachal Pradesh (hereinafter referred to as 'Government') on 01.11.1966. In 1972 about 15 bighas of land were relinquished by the Government in favour of one Mr. Multani. On 02.08.1972 the legal

representatives of the original owner Moti Ram sold 04 bighas 06 biswas out of 30 bighas to one Ram Pyari. The said Ram Pyari filed an ejectment petition against the Government for ejectment on the ground of subletting. Vide order dated 07.12.1979 the ejectment was ordered and the appeal preferred by the Government was dismissed on 25.02.1987. The Government preferred a civil revision petition being CR No.1159 of 1987. It is the case set up by the respondent No.1 that Ram Pyari obtained possession through the Bailiff on 26.03.1987. Vide two sale deeds dated 20.03.1996 and 10.04.1996, the legal representatives of Ram Pyari sold the land owned by Ram Pyari in favour of Bhasin family. Vide order dated 16.10.2008, CR No.1159 of 1987 was allowed by this Court *inter alia* holding therein that the lease was not a 99-years' lease but was a lease in perpetuity. Some of the members of the Bhasin family, namely, Poonam Sharma and others preferred a Special Leave Petition challenging the order dated 16.10.2008. The same was converted to a Civil Appeal being CA No.8720 of 2010. On 01.10.2022 a letter (Annexure P-13) was written by the Principal Secretary (Forests), Government of Himachal Pradesh to the Principal Chief Conservator of Forests (HoFF), Himachal Pradesh, Shimla stating therein that the Government had decided to release the possession of land measuring 10 Bighas 05 biswas in Khasra No.12, 70/32 and 70/30 in possession of the Himachal Pradesh Forest Department at Yamunanagar in favour of Sh/Smt. Vishal Saroha, Gayatri Kochar, Robin Bhasin, Kiran Bhasin etc. on payment of an amount of Rs.4.60 Crores only subject to the conditions that the applicants/owner of the above land would deposit the above fixed total amount in the relevant head of account of Government of Himachal Pradesh,

the certificate of legal heirs/ownership of said land be provided and all pending matters be withdrawn by the applicants/owners. On 01.05.2023 the Special Leave Petition was withdrawn. It is the case of the respondent No.1 that various other cases were also withdrawn by the plaintiff-respondent No.1 herein. Thereafter, one of the co-owner Vishal Saroha approached the Himachal Pradesh High Court by filing CWP No.4179 of 2023. On 18.08.2023, during the pendency of the writ petition, a civil suit was filed by Vishal Saroha for injunction qua 10 bighas 05 biswas of land. The writ petition being CWP No.4179 of 2023 was disposed off on 19.10.2023 observing that though the amount had been paid and incase the petitioner complies with the remaining two conditions within a period of four weeks, the respondents therein i.e. Government would perform their part in terms of the communication dated 01.10.2022 and release the property in issue as per the decision taken by the State Government. It is the case of the petitioner that the said conditions were not complied with and, hence, the resolution dated 01.10.2022 was recalled. Even despite the order passed by the Himachal Pradesh High Court dated 19.10.2023, the injunction application was contested by Vishal Saroha and the same came to be dismissed on 18.11.2023 (Annexure P-3). On 20.11.2023 the suit was withdrawn. On 29.11.2023 a second suit was filed - this time by Robin Bhasin and Ravi Kumar Nehru through General Power Attorney Vishal Saroha qua the property measuring 10 bighas 05 biswas. The suit again was simpliciter suit for injunction. Subsequently, on 19.12.2023 the suit qua the plaintiff No.2 - Ravi Kumar Nehru - was withdrawn and an amended plaint (Annexure P-7) was filed by the respondent No.1 herein. The suit was for permanent

injunction restraining the defendants from interfering in the construction work being carried out by the plaintiff-respondent in property measuring 10 bighas 05 biswas. It is candidly conceded by the learned senior counsel for the respondent No.1 that the Bhasin family had purchased only 04 bighas 06 biswas of land comprised in Khasra No.12 from the legal representatives of Ram Pyari vide two separate sale deeds dated 20.03.1996 and 10.04.1996. Written statement was filed. The Trial Court vide the impugned order dated 19.03.2024 passed an *ad interim* injunction order restraining the defendant-petitioner herein from interfering in the suit property as also allowing the plaintiff-respondent No.1 herein to carry out construction work in the suit property. Aggrieved by the same, an appeal was preferred by the State of Himachal Pradesh. On 08.04.2024 the First Appellate Court held that there was no occasion to grant an *ad interim* injunction without hearing arguments of both the counsel. Hence, the present revision petition.

3. Learned senior counsel for the defendant-petitioner would contend that the suit itself was not maintainable having been filed for 10 bighas 05 biswas as the plaintiff-respondent No.1 herein is the owner to the extent of only 04 bighas 06 biswas. It is further the contention of the learned senior counsel that the co-owner i.e. Vishal Saroha had earlier filed a civil suit (Annexure P-1) which was withdrawn on 20.11.2023 without seeking any liberty to file a suit afresh. Subsequently, the present suit was initially filed by two plaintiffs - one being the respondent No.1 herein - Robin Bhasin - and the second being Ravi Kumar Nehru through General Power Attorney Vishal Saroha. It is further the contention that the suit was again filed for 10 bighas 05 biswas of land. Though Vishal Saroha himself was not a party,

however, his land was also included in the suit. Later on, vide order dated 19.12.2023 the plaintiff No.2 - Ravi Kumar Nehru - withdrew the suit qua himself and an amended plaint was filed by the plaintiff-respondent No.1 again seeking an injunction qua Khasra No.12, 70/30, 70/32 ad measuring 10 bighas 05 biswas, though admittedly the plaintiff-respondent No.1 is owner only to the extent of 04 bighas 06 biswas. The learned senior counsel for the petitioner would further contend that in a suit itself which is not maintainable, the Trial Court has not only granted *ad interim* injunction, but it has also permitted the plaintiff-respondent No.1 to carry out construction, thereby virtually decreeing the suit at the stage of interim stay. It is further the contention of the learned senior counsel that there is a dispute with regard to the ownership rights of the plaintiff-respondent No.1 over the suit property as well as the fact as to whether the plaintiff-respondent No.1 is actually in possession of the suit property. It is further the contention of the learned senior counsel that in the writ petition, which was filed by Vishal Saroha qua 10 bighas 05 biswas of land, he had sought possession. It is further the contention that even in the legal notice dated 25.04.2023 (Annexure P-10) it was stated that the Forest Department of Himachal Pradesh was in unauthorized possession of land. It is further the contention that on 01.05.2023 Vishal Saroha tried to forcibly take possession of his share in the suit property qua which a DDR (Annexure P-15) was lodged and subsequently a FIR was also lodged and Vishal Saroha filed a quashing petition which was later withdrawn by him.

4. *Per contra* the learned senior counsel for the plaintiff-respondent No.1 would contend that a resolution was passed by the

Government dated 01.10.2022 whereby it was agreed that possession would be released in favour of the co-owners on payment of Rs.4.60 Crores qua the entire land measuring 10 bighas 05 biswas. It is further the contention of the learned senior counsel that all the conditions i.e. payment of the money, certificate of legal representatives as well as the fact that all cases be withdrawn were duly complied with by the plaintiff-respondent No.1 herein. It is further the contention of the learned senior counsel that possession of the suit property was taken by Ram Pyari on 26.03.1987 through the Bailiff and thereafter, when the property was purchased by the Bhasin family from the legal representatives of Ram Pyari vide two sale deeds dated 20.03.1996 and 10.04.1996, possession was also handed over. The learned senior counsel would further contend that the conduct of the petitioner is also to be seen in the present case inasmuch as having entered into a compromise and having taken the amount of Rs.4.60 Crores, they are still interfering in the possession of the plaintiff-respondent No.1. The learned senior counsel would further contend that in an interim order passed in Civil Appeal No.8720 of 2010 before the Hon'ble Supreme Court (Annexure A-4) with CM No.10439-CII of 2024, it was observed that the possession was that of the plaintiff-respondent No.1. The learned senior counsel would further contend that possession of 04 bighas 06 biswas is with the plaintiff-respondent No.1 till date.

5. During the course of the hearing, on a query put by the Court qua the maintainability of the suit for 10 bighas 05 biswas of land at the behest of the plaintiff-respondent No.1 who is admittedly owner to the extent of only 04 bighas 06 biswas, Mr. Parveen Chauhan, Advocate,

Instructing Counsel, appearing on behalf of the plaintiff-respondent No.1 has made a statement that they would be filing an amendment application before the Trial Court limiting their prayer to 04 bighas 06 biswas of land out of Khasra No.12.

6. I have heard the learned counsel for the parties.

7. In the present case, admittedly, as noticed above and as conceded by the learned senior counsel, the plaintiff-respondent No.1 is owner to the extent of only 04 bighas 06 biswas of land. A civil suit was filed by Vishal Saroha, one of the co-owners, which suit was withdrawn on 20.11.2023 without liberty to file any fresh suit. Thereafter, the present suit was filed initially by two plaintiffs - one being the respondent No.1 herein - Robin Bhasin - and the second being Ravi Kumar Nehru through General Power Attorney Vishal Saroha. Plaintiff No.2 - Ravi Kumar Nehru - who had preferred the suit through General Power Attorney Vishal Saroha had withdrawn the suit qua himself on 19.12.2023. Subsequently, an amended plaint was filed praying for injunction qua 10 bighas 05 biswas of land comprised in Khasra No.12, 70/30 and 70/32. Once the plaintiff-respondent No.1 concededly is not the owner of the said entire land, whether the suit at his behest for 10 bighas 05 biswas itself was maintainable or not would be a debatable question. However, since the said issue is not before this Court at this stage, this Court refrains itself from returning any finding qua the maintainability of the suit. The appeal is admittedly pending before the First Appellate Court and it would be in the fitness of things if the First Appellate Court is directed to take a decision on the appeal expeditiously in accordance with law. However, keeping in view the above noted contentious

facts, this Court deems it fit and appropriate that status quo qua the suit property be maintained till the appeal is decided by the First Appellate Court, in accordance with law.

8. It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

9. Disposed off accordingly. Pending applications, if any, also stand disposed off.

17.12.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO