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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(203)

CR-3110-2024

Date of decision: - 10.12.2024

Sunil Kumar

....Petitioner

Versus

Ashwani Kumar and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Vipin Mahajan, Advocate
for the petitioner.Mr. Subhash Kumar, Advocate
for respondent No.2.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for quashing of the impugned order dated 19.04.2024 (Annexure P-7) passed by the District Judge, Pathankot in Civil Appeal No.174 of 2019, vide which the application filed by the respondents to appoint receiver of the land in dispute has been allowed.

2. On 20.05.2024, a Co-ordinate Bench of this Court was pleased to pass the following order: -

“Learned counsel for the petitioner inter alia submits that petitioner filed the suit for declaration and for permanent injunction that plaintiff and defendant Nos.1 and 2 are joint owners in possession of the suit land. That HUF property and transfer deed dated 07.09.2015, supplementary deed dated 09.09.2015 executed by defendant No.3 (their mother) is illegal, null & void. The Ld.



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trial Court dismissed the suit and also decided the issue No.5 on the ground that plaintiffs are not entitled for the main relief of the declaration so they are not entitled for declaration and permanent injunction but plaintiff filed the appeal in which status quo order was passed. Now, respondent No.5 has moved an application for appointment of the receiver. The litigation is pending for the last 10 years and plaintiffs are in actual possession of the suit property. The Ld. Appellate Court appointed the receiver despite the fact that plaintiffs are in actual possession of the suit property.

Notice of motion for 10.12.2024 only to the contesting respondent Nos.1 to 4.

In the meantime, operation of the impugned order dated 19.04.2024 (Annexure P-7) is stayed.”

3. Learned counsel for the petitioner has submitted that the appeal filed by the petitioner against the judgment dated 13.08.2019 is now listed for final hearing on 13.12.2024 and has submitted that the petitioner and his counsel undertake to argue the same on 13.12.2024 or any other date on which the 1st Appellate Court directs them to argue the matter and has thus prayed that the impugned order be set aside.

4. Learned counsel appearing for respondent No.2 has submitted that the present petitioner has been delaying the final adjudication of the first appeal and thus, in the said circumstances, the application was filed by the respondents for appointment of a Receiver and respondent No.2 has no objection in case the present revision petition is disposed of with a direction to the 1st Appellate Court to decide the main appeal itself on 13.12.2024 after hearing both the parties concerned or in a time bound manner.

5. Keeping in view the above-said facts and circumstances and

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the fair stand taken by learned counsel for the petitioner as well as learned counsel for respondent No.2, the present revision petition is disposed of with the following directions/observations: -

- (i) The 1st Appellate Court is requested to decide the Civil Appeal No.174 of 2019 filed by the petitioner against the judgment and decree dated 13.08.2019, as expeditiously as possible, preferably within a period of six weeks from 13.12.2024. Counsels for both the parties have undertaken that they would prepare and argue the matter on 13.12.2024 and also on any other date on which the 1st Appellate Court directs them to argue the matter.
- (ii) Since the 1st Appellate Court has been requested to decide the main appeal itself, thus, the order dated 19.04.2024 is liable to be set aside and is accordingly set aside. However, setting aside of the said order dated 19.04.2024 should not be construed as an expression on the merits of the case and the 1st Appellate Court would decide the same independently, in accordance with law, after hearing both the parties concerned.

December 10, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No