



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

CR-2314-2020 (O&M)

Date of decision: 09.05.2024

Chhattarpal Singh and another

....Petitioners

Versus

Sandip Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Nikhil Chopra, Advocate for the petitioners
Mr. Dinesh Kumar and
Mr. M.K.Singla, Advocates for respondent no.1
Mr.Kanav Singla, AAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. The plaintiff has filed this revision petition to assail the correctness of the interlocutory order passed by the trial court while refusing to grant injunction in their favour which in appeal has been affirmed by the appellate court. In substance, the plaintiffs are claiming that the respondents including the Gram Panchayat are digging earth from the property which is located adjoining the plaintiff's property. The defendants contested the suit on the ground that as per directions of the State Government de-silting work in the existing ponds is being carried out. Thus, both the courts refused to grant injunction in favour of the plaintiffs. The correctness of the aforesaid order has been challenged in this revision petition. On 15.10.2020, the following order was passed:-

“ Learned counsel appearing on behalf of the petitioners submits that nothing has come on record so far that there is a pond in khasra No.39,



which is being cleaned by the respondents. Learned counsel for the petitioners places reliance upon the jamabandi for the year 2015-16 to contend that the khasra No.39 has been described as 'gair mumkin abadi' and not the pond and therefore, the respondents are infact digging the land from the said abadi area under the garb that the pond situated in khasra No.39 is being cleaned.

Notice of motion.

Ms. Sudeepti Sharma, learned Additional Advocate General, Punjab, who has joined the proceedings through video conference, accepts notice on behalf of the respondent-State.

Before any action is taken on the plea, let the State Government respond to the said allegation by filing an appropriate affidavit as to whether, there is a pond in khasra No.39 under the revenue record or not, which is being cleaned now keeping in view the direction issued by the State Government.

Adjourned to 15.12.2020.”

2. Para 4 of the affidavit of the Director, Department of Rural Development and Panchayat, Punjab filed in this Court reads as under:-

“4. That as per the report of Block Development and Panchayat Officer Khera, District Fatehgarh Sahib the total area of Khasra No.39 is 218 Kanal (27 Acre 2 Kanal 18 Marla). As per the Jamabandi for the year 2015-16 the land in Khasra No.39 is Abadi Deh. In this khasra number there are 02 ponds apart from other common places like Gurudwara, Dharamshala, Masjid. The BDPO has also enclosed the site plan of Khasra No.39 with his report. He has further reported that the Gram Panchayat Gadhera passed a resolution on 15.06.2020 for cleaning the Pond No.1 which is adjutant to the property of Petitioner No.1 and the same was completed. A copy of report given by Block Development and Panchayat Officer Khera, District Fatehgarh Sahib is annexed as Annexure R-1.”

3. Keeping in view the aforesaid stand, it is evident that the work of de-silting of the alleged pond is complete.

4. Keeping in view the aforesaid position, the revision petition is disposed of as having been rendered infructuous. Needless to observe



that the observations made by the courts below while disposing of the application for temporary injunction shall not be construed as the final expression on the merits of the case.

5. All the pending miscellaneous applications, if any, are also disposed of.

09.05.2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No