

2024:PHHC:056023
137 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4374-2023 (O&M)
Date of decision: 24.04.2024

Bajinder Singh alias Bijender Singh Chauhan

....Petitioner

Versus

Urmila Devi and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Rajinder Goel, Advocate for the petitioner
Mr.Rakesh Gupta and
Ms. Manvi Arora, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. On 14.09.2023, while issuing the notice of motion, the following order was passed:-

“Learned counsel for the petitioner submits that respondent No.1 has only 1 Marla of land out of 40 Marlas and even her real brother has raised construction. It has been submitted that in any case, the petitioner will leave 1 Marla of land before raising any construction.

Notice of motion.

Mr. Rajesh Gupta, Advocate accepts notice on behalf of respondent No.1.

Service to respondents No.2 to 34 is dispensed with for the time being since they were ex parte before the trial Court.

Mr. Rajesh Gupta, Advocate submits that respondent No.1 is owner of only 1 Marla and 3 Sarsai whereas the petitioner is owner of only 6 Sarsai.

Keeping in view of the fact that the construction has already been raised in 30 Marlas of land out of a total of 40 Marlas and keeping in view of the ratio laid down by this Court in the case of ‘Satnam Singh Vs. Gursher Singh and Others’, 2016 (4) Law Herald 3337, the operation of the impugned judgments shall remain stayed.

List on 24.11.2023, for arguments.”

2. Learned counsel representing the petitioner submits that the construction of the house over the land measuring 10 marlas has already been completed by the petitioner.

3. On the other hand, the learned counsel representing the respondents submits that the share of the petitioner is only 20.16 sq. yards, which is equivalent to 6 sirsai, whereas he is alleged to have constructed over 10 marlas plot.

4. This revision petition is arising from an interlocutory order passed by the trial court granting injunction to the respondent (plaintiff before the trial court) which in appeal was affirmed by the First Appellate Court, however, as per the case of the petitioner, the construction has already been completed. In these circumstances, the revision petition is disposed of with the observation that construction, if any, during the pendency of the suit, shall be subject to the outcome of the suit and the petitioner shall not be entitled to claim any compensation for the construction, which has been carried out under the interim order of this Court.

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

24.04.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE