



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 31.07.2024

1. CR-4199-2024 (O&M)

Harinder Kaur Cheema Petitioner

versus

Sanjeet Singh Johal and ors. Respondents

2. CR-4207-2024 (O&M)

Inderjit Cheema and another Petitioners

versus

Sanjeet Singh Johal and ors. Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vikas Mehsempuri, Advocate
for the petitioner(s).

Mr. Vivek K. Thakur, Advocate
for the respondents.

PANKAJ JAIN, J. (Oral)

1. By way of present judgment, I intend to dispose off above said two revision petitions as common question of law and facts are involved therein. For the sake of convenience, facts are being taken from CR-4199-2024.

2. Plaintiff is in revision against order dated 08.07.2024 passed by Additional District Judge, Patiala whereby the application filed by the plaintiff under Order 39 Rules 1 and 2 of the Code of Civil



dated 21.08.2023 passed by Civil judge (Jr. Div.), Patiala.

3. Plaintiff alongwith the proforma defendants in the suit claimed that they are right holders of Village Terain, District Patiala and are owners in possession of the suit land as mentioned in the headnote of the plaint. It was claimed that Gurdeep Kaur-sister of husband of the plaintiff left all her rights in the land with her free will. Further reliance was being placed upon affidavit claiming that Gurdeep Kaur got transferred entires khasra girdawaris in favour of the plaintiffs. However, after the death of Gurdeep Kaur on 18.08.2010, mutation No.2694 dated 10.11.2010 was wrongly entered in favour of the contesting defendants.

4. Suit was contested by the defendants, who thus claimed that Gurdeep Kaur was rightful owner of the land in dispute and the affidavit executed was only with respect to cultivating rights and had no effect with respect to the title over the land. On the death of Gurdeep Kaur, succession opened and the land vested in her successors i.e. defendants No.1 and 2. Further the parties are already before the Revenue Courts in partition proceedings and the present suit has been barred only with an intent to raise the question of title only.

5. Trial Court allowed the application filed under Order 39 Rules 1 and 2 by the plaintiffs and ordered the parties to maintain status quo holding that the effect of affidavit Annexure P-4 is matter of trial and till the trial is concluded, the parties need to maintain status quo.

6. In appeal, Lower Appellate Court reversed the findings holding that affidavit Annexure P-4 alleged to have been executed by



Gurdeep Kaur alongwith her two other sisters was only with respect to correction of khasra girdawari and the same cannot have an effect of vesting title on the plaintiff.

7. Mr. Mehsempuri while assailing the impugned order submits that without any basis, Lower Appellate Court had reversed well reasoned finding recorded by the Trial Court. It has been contended that Trial Court rightly held that effect of affidavit Annexure P-4 being matter of trial, the parties were required to maintain status quo.

8. I have heard counsel for the petitioner and have carefully gone through the records of the case.

9. At the heart of the controversy lies the effect of affidavit alleged to have been executed by Gurdeep Kaur alongwith her other sisters which was filed alongwith a request to change khasra girdawaris in favour of her brothers namely Gurjeet Singh Cheema, Harman Cheema and Paras Cheema. Mr. Mehsempuri is not in a position to dispute that even if the affidavit Annexure P-4 is held to be validly executed, the same only states that the brothers are cultivating the land on behalf of their sisters. The said affidavit cannot bestow any title on the plaintiffs. After death of Gurdeep Kaur, mutation with respect to her succession was sanctioned on 10.11.2010. Present suit has been filed on 10.12.2019 after the partition proceedings were initiated before the Revenue Court on 11.11.2011. The plaintiffs are contesting the same since its inception.

10. In view of above, this Court finds that the Appellate Court rightly held that there was no *prima facie* case in favour of the plaintiffs



and thus declined their application filed under 39 Rules 1 and 2 of the Code of Civil Procedure.

- 11. Consequently, the present revision petitions are dismissed.
- 12. A photocopy of this order be placed on the file of other connected case.
- 13. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

31.07.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No