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

CR-3994-2022 (O&M)

Date of Decision : 20.11.2024

Ali Mohammad @ Alli @ Ismail & Anr

... Petitioner(s)

Versus

Khurshid Ahmad & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Saurabh Verma, Advocate for
Mr. Satish Chaudhary, Advocate for the petitioners.

Mr. Akshay Jindal, Advocate for the respondent No.1.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 31.10.2019 passed by the Trial Court whereby the application filed by the decree-holder/plaintiff-respondent No.1 for providing Police help has been allowed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent No.1 herein filed a suit for permanent injunction for restraining the defendant-petitioners from interfering in his peaceful possession which was decreed vide judgment and decree dated 24.08.2010. Aggrieved by the same, an appeal was preferred by the defendant-petitioners herein which was dismissed vide judgment and decree dated 22.12.2011. The said judgments and decrees passed by both the Courts were affirmed by this Court in a regular second appeal preferred by the defendant-petitioners herein. Thereafter, an execution petition was filed for Police help on the ground that the judgment debtor/defendant-petitioners were interfering in the peaceful possession of the

plaintiff-respondent No.1. Meanwhile, on 09.10.2019 a civil suit for declaration was filed by the father of the defendant-petitioners herein alongwith a prayer for joint possession. The said civil suit is pending.

3. Learned counsel for the defendant-petitioners would contend that the order directing Police help for protecting the possession of the DH-plaintiff/respondent No.1 herein could not have been ordered as the civil suit for declaration and possession is pending. It is further the contention of the learned counsel that it is the plaintiff-respondent No.1 who was interfering in their possession.

4. *Per contra*, the learned counsel for the plaintiff-respondent No.1 would contend that the suit for permanent injunction was decreed in favour of the DH-plaintiff-respondent No.1 on 24.08.2010 and was affirmed upto this Court. Thereafter in 2019 a suit for declaration and joint possession has been filed, which is pending. However, since it has been upheld upto this Court that the plaintiff-respondent No.1 is in possession, he is entitled to protect his possession till the decision of the suit for declaration and possession filed by the defendant-petitioners herein.

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

6. In the present case, a decree dated 24.08.2010 passed in favour of the plaintiff-respondent No.1 was affirmed upto this Court. Though a suit for declaration and possession has now been filed by the father of the defendant-petitioners, however, admittedly there is no order of status quo. That being so, once the decree in favour of the DH-plaintiff-respondent No.1 has been upheld upto this Court, he has a right to protect his possession till such time as the suit for declaration and joint possession is decided. The

petitioners cannot interfere in the possession of the DH-plaintiff-respondent No.1 till such time as there is a decree passed in his favour.

7. In view of the above, I do not find any merit in the present revision petition. The same being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

20.11.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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