

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

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CR-6199-2023 (O&M)

Date of decision:24.04.2024

Major Singh

... Petitioner

Vs.

Surinder Kaur

... Respondent

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. G.S. Sidhu, Advocate and
Mr. Mohit Kumar, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed against the order dated 13.07.2022 passed by the Civil Judge (Jr. Division), Hoshiarpur (Annexure P-1), and order dated 02.12.2022 passed by the Additional District Judge, Hoshiarpur (Annexure P-2) vide which the application filed by the petitioners/plaintiffs under Order 39 Rules 1 & 2 CPC has been dismissed.

2. The brief facts relevant for the purpose of adjudication of the present revision petition are that the petitioners/plaintiffs filed a suit for permanent injunction restraining the respondent/defendant from interfering, dispossessing and raising any construction on the plot measuring 5 marlas out of Khasra No.197, Khewat No.314/294, Khatauni No.418 as per jamabandi for the year 2014-15, situated in Village Bham, Tehsil Garhshankar, District Hoshiarpur. Along with the suit, application under Order 39 Rules 1 & 2 CPC was also filed. This application was dismissed by

the Civil Judge (Jr. Division), Hoshiarpur vide order dated 13.07.2022. The petitioner preferred an appeal against the order dated 13.07.2022 passed by the Civil Judge (Jr. Division), Hoshiarpur before the Appellate Court, Hoshiarpur, but the appeal of the petitioners was also dismissed by the Appellate Court, Hoshiarpur vide order dated 02.12.2022. Hence, aggrieved of the said orders, the present revision petition has been filed before this Court by the petitioners/plaintiffs.

3. Learned counsel for the petitioners has contended that the trial Court as well the Appellate Court have failed to appreciate that the petitioners have already executed one agreement to sell dated 14.08.2022 of the plot measuring 5 marlas in favour of Mukhtiar Singh. As per the boundary shown in the site plan in red colour, the respondent is trying to dispossess the petitioners from the property in dispute. He has argued that it has also not been appreciated by the Courts below that as per jamabandi for the year 2015-16, the trial Court has granted interim stay to the petitioners on 13.10.2021, but due to mis-representation of the facts by the respondent, this application was dismissed by the trial Court vide order dated 13.07.2022. He has submitted that appellants are co-owners in the property and out of their share, they have executed an agreement to sell dated 14.08.2022 regarding the plot measuring 5 marlas in favour of Mukhtiar Singh for a sum of Rs.3500/- to whom they delivered the possession and they also gave Special Power of Attorney to Mukhtiar Singh. Appellants have still more share in khasra No.197 and respondent has no concern or connection with the suit property and she is unnecessarily interfering and threatening the appellants for dispossessing and creating hindrance in raising

the construction over there. The plaintiffs/petitioners are seeking relief of injunction for restraining the respondent from dispossessing or interfering and from raising construction on the plot measuring 5 marlas out of khasra No.197 on which the appellants claim their ownership as co-owners. It has been alleged that as the petitioners had executed an agreement to sell dated 14.08.2022 in favour of Mukhtiar Singh, who is also their Special Power of Attorney holder regarding the said 5 marlas plot out of their share, so defendant has no right to obstruct Mukhtiar Singh from raising construction over it. But as per the averments in the written statement filed by the defendant, the agreement to sell dated 14.08.2020 is a false document, which has been prepraed by the plaintiffs and his attorney to harass the defendant. Names of the plaintiffs have been mentioned in the cultivation column in the jamabandi for the year 2020-21 as '*Billa Baya, Billa Neej*' which means that the plaintiffs and their sister had sold the property more than their share as per revenue records as total land in khasra No.197 is 3 kanals 4 marlas i.e. 64 marlas and plaintiffs have already sold their 2 marlas share, so presently they have no concern with the property in khasra No.197. It has been averred that defendant is true owner of property measuring 5 marlas comprised in khewat No.328, khatauni No.430, khasra 197 (3 kanals 4 marlas) which they had purchased from Hari Singh Jaswal vide sale deed dated 29.06.2020 which is owned by her and even mutation has also been sanctioned in favour of defendant.

4. I have heard learned counsel for the petitioners at length and have perused the record.

5. The parties to the *lis* are yet to prove their contentions by

leading the cogent evidence. It has been correctly held by the trial Court that at this stage, no prima facie case is made out in favour of the plaintiffs and balance of convenience is also not in their favour, which are the necessary ingredients for granting the relief of permanent injunction.

6. In the light of the above, the impugned order is well reasoned and does not suffer from any illegality or perversity.
9. The revision petition sans merits and stands dismissed.

(SUKHVINDER KAUR)
JUDGE

24.04.2024
harjeet

1. Whether speaking/reasoned? Yes/No
2. Whether reportable? Yes/No