

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.6483 of 2024 (O&M)
Reserved on: 07.11.2024
Date of Order:17.12.2024

Jasbir Singh

.Petitioner

Versus

Om Pal Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. L.S.Sidhu, Advocate, for the petitioner.

ANIL KSHETARPAL, JUDGE (Oral)

1. The petitioner assails the correctness of Executing Court's order passed on 20.12.2019, while dismissing his application under Order 21 Rule 32 of the Code of Civil Procedure, 1908. He filed a first appeal but withdrew the same with liberty to file revision petition.

2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.

3. The petitioner along with Sh. Jagmohan Singh filed a suit for injunction against Punjab Wakf Board and the Cantonment Board claiming that he is in possession of the property as lessee under the Punjab Wakf Board. Subsequently, the suit against Punjab Wakf Board was withdrawn but it continued against the Cantonment Board. It was claimed by the Cantonment Board that the property falls in Ferozepur Cantt and as per General Land Register, its being managed by the Cantonment Board and the plaintiff have no concern with the same. The court did not decide the question of ownership but granted limited injunction in favour of the plaintiff from forcible dispossession on 10.08.1998, which in appeal was

reversed by the First Appellate Court on the ground that the plaintiff is a trespasser and hence not entitled to injunction. However, the Regular Second Appeal filed by the plaintiff was decreed on 09.12.2015, while giving liberty to the Cantonment Board to proceed against the petitioner as per the provisions of the Public Premises Act, 1971 (hereinafter referred to as 'the 1971 Act') , if the property vests in Cantonment Board. The proceedings under the 1971 Act, are pending. The petitioner filed an application under Order 21 Rule 32 CPC claiming that an attempt was made by the respondents to forcefully dispossess the petitioner on 28.10.2016. It is also alleged that the petitioner and his family were beaten up on 02.11.2016, for which he filed police complaint but no action was taken.

4. The Executing Court culled out the issues and called upon the parties to lead evidence. After appreciating the evidence produced by the parties, it was found that the petitioner has failed to make out a case for willful disobedience of the injunction decree particularly when the Cantonment Board has initiated proceedings under the 1971 Act.

5. The learned counsel representing the petitioner submits that the respondents have scant regard to the decree passed by the court and twice attempt has been made to dispossess the petitioner. He further submits that the trial court has erred in failing to appreciate the evidence in proper perspective.

6. This court has considered the submissions.

7. It may be noted here that AW2-Sh. Sandeep Bajaj, AW3-Sh. Barjinder Kumar, AW4-Mohd. Ali, Rent Controller, Punjab Wakf Board, Ferozepur, have been examined by the petitioner to prove the issue of ownership which is not required to be decided in these proceedings. In order

to prove willful infringement of the injunction decree, PW4-Jaswinder Singh and the petitioner himself has appeared in evidence. The court has found that the petitioner has failed to prove either the occurrence on 28.10.2016 or on 02.11.2016. It has been found that Sh. Sukhmander Singh, in whose presence the incident dated 02.11.2016, had occurred has not been examined and Sh. Jaswinder Singh in his cross examination did not say anything to the officers present there.

8. The petitioner also failed to prove the photographs which were produced at the time of evidence of the respondents and the same was never produced when the application was filed or at the time of petitioner's evidence.

9. The scope of interference in a revision petition is limited. In absence of perversity or a material irregularity in the impugned order, the court is not expected to interfere. A plausible conclusion have been arrived at by the trial court upon appreciation of the evidence. Moreover, the Cantonment Board has already initiated proceedings under the 1971 Act which proves that recourse to the law has already been taken by the Cantonment Board.

10. Hence, no ground to interfere.

11. Dismissed.

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

(ANIL KSHETARPAL)
JUDGE

17th December, 2024

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