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

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Civil Revision No.4911 of 2017
Date of decision: February 5th, 2026

Rajesh Kumar @ Bittu

...Petitioner

Versus

Bakshish Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Karan Bhardwaj, Advocate
for the appellant.

Mr. Vishal Aggarwal and Mr. G.S. Sarao, Advocates
for respondents No.1 to 7.

VIKAS BAHL, J. (ORAL)

1. This is a civil revision petition under Article 227 of the Constitution of India for setting aside the order dated 16.08.2016 (Annexure P-3), order dated 09.02.2017 (Annexure P-4) passed by the Civil Judge (Junior Division), Ludhiana as well as the order dated 19.04.2017 (Annexure P-10) passed by the trial Court vide which the objections filed by the petitioner dated 01.03.2017 (Annexure P-7) as well as the application filed by the petitioner under Order 1 Rule 10 CPC read with Section 151 CPC dated 15.03.2017 (Annexure P-8) has been dismissed by the trial Court.

ARGUMENTS ON BEHALF OF THE PETITIONER:

2. Learned counsel for the petitioner has submitted that the petitioner had filed objections dated 01.03.2017 in the application for passing final decree, on the ground that police officials along with 10-12 persons had visited the shop in question which was in possession of the



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petitioner on 22.02.2017 and had taken possession from the petitioner after showing warrants of possession issued by the Court against the petitioner. It is further submitted that the petitioner was shocked since he had been in possession of the suit property as a tenant and had been illegally dispossessed. It is stated that in the said objections a prayer had been made that he be put into possession of the above said property. Learned counsel for the petitioner has further submitted that the petitioner had filed another application under Order 1 Rule 10 CPC to be impleaded as a party in the proceedings instituted by respondents No.1 to 7 and that both the objections and the application had been dismissed vide order dated 19.04.2017, which order is illegal and deserves to be set aside. It is submitted that the petitioner is also challenging the issuance of warrants of possession issued on 16.08.2016 and 09.02.2017 and that since the petitioner was never a party to the original proceedings, thus, the taking of possession of the suit property from the petitioner is illegal and the possession deserves to be restored to the petitioner and the objections filed by the petitioner deserves to be allowed.

ARGUMENTS ON BEHALF OF THE RESPONDENTS NO.1 TO 7:

3. Learned counsel for the respondents No.1 to 7, on the other hand, has submitted that the possession of the property has been taken by the decree holders through Court after due process. It is submitted that respondents No.1 to 7 had filed a suit on 01.09.2000 for declaration that the plaintiffs were joint owners in possession of the suit property and for separate possession by way of partition by metes and bounds. It is stated that the preliminary decree was passed in the said suit on 11.12.2006 and the



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present petitioner has no right in the suit property. It is argued that the judgment debtors being dissatisfied with the same had filed an appeal against the said judgment and decree, which was dismissed vide judgment and decree dated 16.10.2012 by the Additional District Judge and the Regular Second Appeal against the same was also dismissed on 03.12.2015. It is further argued that the judgment debtors had made every endeavour to delay the proceedings and had filed objections which were dismissed for non-prosecution vide order dated 16.08.2016 and thereafter the judgment debtors had filed Civil Revision No.2670 of 2017, which was dismissed by a coordinate Bench of this Court on 27.07.2023. It is submitted that after the dismissal in default of the objections of the judgment debtors, the present petitioner in collusion with the judgment debtors filed objections although he had no *locus standi* and had filed the same without there being any provision of law in the proceedings for application for final partition.

4. Learned counsel for the contesting respondents has further highlighted that prior to the filing of the said objections dated 01.03.2017, the present petitioner had filed a suit for permanent injunction on 13.09.2016, the plaint of which has been annexed as Annexure P-9 along with the present petition. It is submitted that there is nothing to show that there was any injunction in favour of the petitioner and the said suit was withdrawn on 14.09.2019 and in view of the said withdrawal, the Court fee which was affixed by the petitioner with the suit was also returned to him. It is argued that the very fact that no injunction was granted in favour of the petitioner clearly showed that the petitioner had no *prima facie* case and



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there was nothing on record to show that the petitioner was in possession of the property prior to the date of the institution of the present suit which was admittedly instituted on 01.09.2000. It is argued that the judgment debtors in order to create hurdles in the proceedings had handed over the possession of the property during the pendency of the proceedings to the petitioner and the said act of the judgment debtors is governed by the principle of *lis pendens* and thus, the present petitioner has no right to file any independent objections. It is submitted that the application under Order I Rule 10 CPC filed by the petitioner is completely misconceived, inasmuch as, the petitioner admittedly is not claiming himself to be the owner of the suit property which is sought to be partitioned. It is submitted that the impugned order is in accordance with law and deserves to be upheld and the present revision petition deserves to be dismissed.

ANALYSIS AND FINDINGS:

5. This Court has heard learned counsel for the petitioner as well as learned counsel for the respondents No.1 to 7 and is of the opinion that the present revision petition is meritless and deserves to be dismissed and the impugned order deserves to be upheld for the reasons detailed hereinafter.

6. It is not in dispute that respondents No.1 to 7 had instituted Civil Suit No.209 on 01.09.2000 in which preliminary decree was passed on 11.12.2006. Krishna Kaur (defendant No.1/JD No.1), of whom the petitioner is now alleging that he is tenant, was duly represented in the said proceedings and had filed a written statement, the details of which have been



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mentioned in paragraph 3 of the judgment dated 11.12.2006. It was the plea of the said defendant that she was in exclusive possession of the property in question. It was nowhere the plea of the said defendant No.1 that the present petitioner, who is now alleging himself to be the tenant, was in possession of the suit property. The said suit was decreed vide judgment dated 11.12.2006. It is not in dispute that the appeal filed against the said judgment and decree was dismissed by the Additional District Judge, Ludhiana, on 16.10.2012 and the Regular Second Appeal bearing No.330 of 2014 was dismissed by this Court vide judgment dated 03.12.2015. To delay the proceedings, judgment debtor No.2-Gopal Singh filed objections which were dismissed in default on 16.08.2016. The said order dated 16.08.2016 was challenged by the judgment debtors i.e. Krishna Kaur and others by filing CR-2670-2017 which was dismissed by a coordinate Bench of this Court vide order dated 27.07.2023. The relevant portion of the said judgment is reproduced hereinbelow:

“I have considered the arguments and have gone through the record. As referred above, it is clear that preliminary decree was passed by the Court of learned Civil Judge (Junior Division), Ludhiana way back on 11.12.2006, which is Annexure P-2. As per this preliminary decree for partition, the shares of the plaintiffs and the defendants were determined. The appeal preferred by the present petitioners was dismissed by the First Appellate Court as well as in Regular Second Appeal. The copies of judgment dated 16.10.2012 passed by learned Additional District Judge, Ludhiana and order dated 03.12.2015 in RSA are Annexures P-3 and P-4



respectively. The application for passing of final decree is pending since 22.02.2007, which is Annexure P-5. The perusal of impugned order Annexure P-1 clearly indicates that the report of Local Commissioner was received to which the objections were filed by defendant No. 2 and reply was also filed. As nobody had appeared on behalf of objector, the objections were dismissed for want of prosecution and warrants of possession were issued as per the report of Local Commissioner dated 01.04.2016. The proceedings of passing of final decree is in-fact the execution of preliminary decree for partition and to deliver the possession by way of partition as per shares determined therein. Therefore, I do not find any illegality or irregularity committed by the Court of learned Civil Judge (Junior Division), Ludhiana in passing of order dated 16.08.2016. Finding no merits in the present civil revision, the same is accordingly dismissed.”

7. Admittedly the petitioner had filed a civil suit for permanent injunction with respect to the suit property restraining respondent No.1-Bakhshish Singh as well as Krishna Kaur-respondent No.8 from dispossessing the petitioner forcibly or illegally. The plaint in the said suit is annexed as Annexure P-9. In the said suit, the plea taken by the petitioner was that he was the tenant of Krishna Kaur (JD No.1) and he was in peaceful possession of the suit property and it were the defendants in the said suit, who wanted to forcibly dispossess him. The headnote of the said suit is reproduced hereinbelow:

“Rajesh Kumar @ Bittu aged 47 years son of Shri Babu Ram, resident of House No.9835, Street No.13, New



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Subhash Nagar, Near Tikoni Park, Basti Jodhewal, Rahon Road, Ludhiana, tenant in shop situated at Main Road, New Subhash Nagar, Near Tikoni Park, Basti Jodhewal, Rahon Road, Ludhiana.

...Plaintiff

Versus

1. Krishan Kaur wife of Late Shri Kundan Singh, resident of House No.9931, Street No.13, New Subhash Nagar, Near Tikoni Park, Basti Jodhewal, Rahon Road, Ludhiana.

2. Bakhshish Singh son of Late S.Kundan Singh, resident of House No.58-B, Baba Ram Dev Colony, Near Jagirpur, Rahon Road, Ludhiana.

...Defendants

Suit for grant of permanent injunction restraining the defendants, their agents, attorneys, servants, employees, associates etc. from interfering or causing any interference and/or dispossessing or causing to dispossess the plaintiff from a shop being run under the name and style of M/s.Bittu Cycle Wala, situated at Main Road, New Subhash Nagar, Near Tikoni Park, Basti Jodhewal, Rahon Road, Ludhiana as shown red in the site plan attached with the plaint illegally, forcibly and without adopting due process of law, on the basis of oral and documentary evidence.”

8. There is nothing on record to even remotely show that any injunction was passed in favour of the petitioner in the said case. It is not in dispute that on 14.09.2019, the petitioner had withdrawn the said suit without seeking any liberty and in fact had even got the Court fee refunded in the National Lok Adalat. The order dated 14.09.2019 is not in dispute and



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is reproduced hereinbelow:

*“Present: Sh. Nazar Singh, Adv. counsel for plaintiff.
Defendant no.1 exparte.
Sh. Sudesh Mahajan, Adv. Counsel for
defendant no.2*

*File taken up today in the National Lok
Adalat. Sh. Nazar Ram, Adv. Counsel for plaintiff
suffered statement on 27.08.2019, that he withdraw the
suit for permaent injunction. Heard. In view of the
statement suffered by Ld. counsel for plaintiff, the
present suit is ordered to be dismissed as withdrawn.
Court fees, if any be returned to the plaintiff as per rules.
File be consigned to the record room.*

*Announced in the open Court: (Gagandeep Singh),
Dated: 14.09.2019 Presiding Officer
-cum-
Civil Judge (Jr.Div.),
Lok Adalat, Ludhiana”*

9. However, in order to create hurdles in the final determination of the case which had been instituted in the year 2000, the petitioner had filed objections as well as an application under Order I Rule 10 CPC. The said objections/application were filed during the course of the proceedings in the application for passing of the final decree.

10. On a pointed query raised by this Court, learned counsel for the petitioner has not been able to refer to any provision of law which would entitle the petitioner (alleged third party) to file objections during the course



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of proceedings in an application for passing of final decree. The said objections thus deserve to be dismissed on the said ground alone. Even a perusal of the said objections would show that the ground for filing the objection was the taking of possession on 22.02.2017. The fact that the petitioner had filed a suit for permanent injunction on 13.09.2016 would show that the petitioner already had an apprehension of the possession being taken away from him and having failed to either get injunction or prove his right in the said suit, he had chosen to file these objections which were not maintainable in law. On a further pointed query raised by this Court to the effect whether the petitioner has any document to show *prima facie* that the possession of the petitioner was prior to 01.09.2000 when Civil Suit No.209 was filed, learned counsel for the petitioner has replied in the negative. It is surprising that the petitioner who is alleging himself to be a tenant since 1999 has no document prior to 01.09.2000 to *prima facie* show his possession. Thus the argument raised on behalf of the contesting respondents that the judgment debtors have handed over possession to the petitioner during the pendency of the suit and the same is hit by the principle of *lis pendens* is meritorious and deserves to be accepted as he has not been able to show his possession prior to 01.09.2000. The petitioner would then have to sink or swim with the judgment debtors. The objections of the judgment debtors had been dismissed and even the revision challenging the same had also been dismissed. The objections by the present petitioner are thus completely baseless and have been rightly dismissed by the Court vide order dated 19.04.2017.



11. A perusal of the application under Order I Rule 10 CPC (Annexure P-8) would show that the petitioner has not even stated as to in what capacity, the petitioner wishes to be impleaded in the proceeding for final decree. Admittedly the petitioner is not the owner of the suit property and thus the said application is also completely frivolous and has rightly been dismissed by virtue of the impugned order dated 19.04.2017. Admittedly the respondents have taken possession of the property through due process of law.

12. The Hon'ble Supreme Court in the case of *Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil* reported as *(2010) 8 Supreme Court Cases 329*, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that



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the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

13. Keeping in view the above, this Court is of the opinion that the impugned orders do not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned orders are upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

14. Pending applications, if any, stand disposed of.

February 5th, 2026
Puneet

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes