

(2016) 02 P&H CK 0067
In the Punjab And Haryana At Chandigarh
Case No : CR No.5626 of 2015(O&M)

Angrej Singh and others

APPELLANT

Vs

Smt. Kuldeep Kaur and others

RESPONDENT

Date of Decision : 16-02-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2
Punjab Village Common Lands (Regulation) Act, 1961 — Section 7

Citation : (2016) 02 P&H CK 0067

Hon'ble Judges : Darshan Singh, J.

Bench : Single Bench

Final Decision : Dismissed

Judgement

Darshan Singh, J. (Oral) - The present civil revision petition under Article 227 of the Constitution of India has been preferred against the orders dated 25.08.2014 passed by the learned Civil Judge (Jr. Division), Khanna and the order dated 22.07.2015 passed by learned Additional District Judge, Ludhiana, vide which the application filed by the petitioners under Order 39, Rule 1 and 2 Code of Civil Procedure, 1908 (for short CPC) for ad interim injunction has been dismissed.

2. The petitioners-plaintiffs have filed the suit in the representative capacity on behalf of the landless/other beneficiaries of the village on the grounds inter alia that the Punjab Government has framed a policy to allot the residential houses to the landless labourers. As per the said policy on 28.10.2010, the Gram Panchayat of village Kot Panaich after complete verification allotted 77 plots to the plaintiffs and the other landless labourers of the village. Resolution dated 28.10.2010 to this effect was also passed. The list of 77 allottee's was cleared by the authorities. The sanad allotment was also issued on 19.02.2013 to the allottee's of the plots measuring 5 Marlas each. There is a party-faction in the village. Defendants belongs to the ruling party. They tried to interfere and dispossess the plaintiffs from the suit property. Hence the suit as well as the stay application.

3. Defendants-respondents contested the suit on the grounds inter alia that the land in dispute was being used as a playground by the villagers. The plaintiffs cannot assert their possession over it. The sanad allotment was never officially issued in their names nor any such property was allotted to them except one person namely Balbir Singh son of Dalbara Singh as only he was found to be eligible for allotment of 5 Marlas plot under the Punjab Government Policy being landless person. The remaining 76 persons were not found to be eligible as they already had landed property and were not found to be landless persons.

4. The application for ad interim injunction was dismissed by the learned Civil Judge (Jr. Division) Khanna vide impugned order dated 25.08.2014. They preferred the appeal and the same was also dismissed by the learned Additional District Judge, Ludhiana vide impugned order dated 22.07.2015. Hence this civil revision petition.

5. I have heard Mr. Abhimanyu Singh, Advocate, learned counsel for the petitioners and have maliciously gone through the paper book.

6. Initiating the arguments, learned counsel for the petitioners contended that the plots were allotted to the petitioners and other landless labourers of the villagers i.e. total 77 plots measuring 5 Marlas each by the Gram Panchayat as per the policy of Punjab Government. The said allotment was approved by the Deputy Commissioner on the basis of the report forwarded by Sub-Divisional Magistrate, Khanna. He contended that there is party faction in the village. The respondents wants to forcibly dispossess the petitioners from the disputed plots. Their possession is admitted as petition under Section 7 of the Punjab Village Common Lands Regulation, 1961 (for short "Act"), has been filed for their eviction. So, they are entitled for injunction against their forcible dispossession.

7. I have duly considered the aforesaid contentions.

8. The Hon"ble Supreme Court in case Skyline Education Institute(India) Private Ltd. v. S.L. Vaswani and another 2010(3) R.C.R (Civil) 436 has laid down that where application for temporary injunction has been rejected by the trial Court based on objective consideration of the material on record, the Appellate Court should not interfere on the ground that different view was possible. In the instant case also learned both the Courts below have returned concurrent findings rejecting the application for ad interim injunction moved by the petitioners.

9. There is no dispute that the Punjab Government has framed the scheme for allotment of the plots to the landless labourers. The plots were to be allotted only to the eligible persons under the scheme. The Additional Deputy Commissioner has conducted the inquiry and as per his report only one person namely Balbir Singh son of Dalbara Singh was found to be eligible for allotment of 5 Marlas plot under the Punjab Government Policy. The District Development and Panchayat Officer, had directed the Block Development and Panchayat Officer, Khanna to issue the sanad allotment to said Balbir Singh. The property in dispute is owned by the Gram Panchayat and was used as a playground. The petitioners have not

been able to show any evidence to establish their lawful possession over the suit property.

10. The fact that a petition under Section 7 of the Act has been filed against the petitioners will not establish their right for ad interim injunction. Rather, it shows that the legal procedure is being adopted to evict the petitioners. So, there is no question of their forcible dispossession. Moreover, the learned First Appellate court has rightly observed that if the injunction is granted, it will clearly amount to interfere in the legal proceedings being conducted by Collector-cum-DDPO who is seized of the matter under Section 7 of the Act.

11. Thus, I do not find any illegality in the impugned orders passed by the learned Courts below rejecting the application filed by the petitioners for grant of ad interim injunction.

12. Resultantly, the present revision petition having, no merits, is hereby dismissed.