
(1998) 08 P&H CK 0126
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 966 of 1997

Darshan Singh and Others

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 12-08-1998

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2

Citation : (1999) 121 PLR 319 : (1999) 2 RCR(Civil) 116

Hon'ble Judges : G.C. Garg, J

Bench : Single Bench

Advocate : Ashok Verma, for the Appellant; Gorakh Nath, for the Respondent

Final Decision : Allowed

Judgement

G.C. Garg, J.—Plaintiff-petitioners filed a suit for declaration to the effect that they are owners in possession of the land measuring 24 Kanals and 16 Marias as fuui; detailed in the head-note of the plaint and that defendant No. 2 has no jurisdiction to pass any order to deliver the possession of the land in dispute in favour of defendants 3 to 5. The case of the private defendants is that the land in dispute was allotted to them by the Consolidation Authorities on July 14, 1967 and that they are seeking the possession thereof from the Consolidation Officer.

2. Plaintiffs moved an application under Order 39 Rules 1 and 2 read with Section 151 of the CPC praying that defendant No. 2 be restrained from dispossessing the plaintiffs from the suit land during the pendency of the suit. The trial Court by an order dated 1.12.1995 dismissed the application after coming to the conclusion that the plaintiffs have failed to prove a prima facie case In their favour and that no irreparable loss would be caused to them if they are dispossessed from the suit land during the pendency of the suit. An appeal against the said order was dismissed by the learned Additional District Judge, Sirsa by an order dated 10.1.1997. Hence this revision at the instance of the plaintiff-petitioners.

3. In response to the notice of motion having been issued, Mr. Gorakh Nath, Advocate put in appearance on behalf of respondents.3 and 4.

4. I have heard learned counsel for the parties and perused the record. Learned counsel for the petitioners submitted that the plaintiffs are in possession of the land in dispute for a pretty long time and they are owners in possession. As already noticed, the case of the private respondents on the other hand is that land in dispute was allotted to them by the consolidation authorities and they are seeking possession thereof.

5. On a consideration of the matter and having regard to the facts and circumstances of this case, I find that concededly the plaintiffs are in possession of land in dispute. They are yet to establish their title before the Civil Court. If they are dispossessed from the suit land during the pendency of the suit, they, in my opinion, will suffer irreparable loss. The Courts below, thus, were not right in dismissing the application of the plaintiffs filed under Order 39 Rules 1 and 2 by only averring that the plaintiffs have no prima facie case.

6. In view of the above, this revision petition is allowed. Order under revision is set aside. Defendants-respondents are restrained from dispossessing the plaintiffs from the land in dispute till the final disposal of the suit.

7. A perusal of the order of trial Court shows that the plaintiffs filed the suit in September, 1995 and it is yet pending disposal. In that view of the matter, trial Court is directed to dispose of the suit itself at a very early date after affording not more than three opportunities to each of the parties at short intervals. Parties through their counsel are directed to appear before the trial Court on 24.8.1998 so as to ensure that the trial Court disposes of the suit at a very early date after adhering to the directions contained herein.