

(1998) 01 P&H CK 0020
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1783 of 1997

Kanwarjit Singh

APPELLANT

Vs

Yamin

RESPONDENT

Date of Decision : 21-01-1998

Acts Referred:

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

Citation : (1998) 119 PLR 863 : (1998) 2 RCR(Civil) 13

Hon'ble Judges : Sat Pal, J

Bench : Single Bench

Advocate : R.P. Dahiya, for the Appellant; S.K. Bansal, G.S. Bhatia and J.S. Chadha, for the Respondent

Final Decision : Dismissed

Judgement

Sat Pal, J.—This petition has been directed against the order dated 25.7.1997 passed by Additional District Judge, Sonapat. By this order the learned Additional District Judge has accepted the appeal of the respondents/defendants and has set aside the order dated 11.10.1996 passed by the learned trial Court by which the petitioners were granted interim injunction restraining the defendants from interfering in the peaceful possession of the plaintiff over the suit land. Notice of this petition was issued to the respondents.

2. I have heard the learned counsel for the parties and have perused the judgments of the Courts below. I, however, do not find any infirmity or illegality in the well reasoned order passed by the learned Additional District Judge, Sonapat.

3. Mr. Dahiya, the learned counsel appearing on behalf of the petitioner has drawn my attention to the order dated 11.10.1996 passed by the learned trial Court and submits that the learned trial Court after appreciating various documents referred to therein, came to the conclusion that prima facie the plaintiffs had a good case and the balance of convenience was in their favour. He

further submits that the respondent Wakf Board had leased the suit land in favour of the petitioner and as such the petitioner was entitled to the injunction granted by the learned trial Court.

4. Mr. Bansal, the learned counsel appearing on behalf of the respondents No. 1 to 4 after referring to the impugned order submits that the father of the petitioner had earlier filed suit bearing No. 545 of 1994 against respondent Wakf Board for restraining them from alienating the suit land in favour of the respondents, as suit land was a graveyard and its user could not be changed. He further submits that in that suit the respondent Wakf Board had given an undertaking on 20.7.1995 before the learned trial Court to the effect that it would not alienate the suit land in any manner and further it would not change its nature in any form. It is strange that on the one hand the petitioners themselves had alleged in the earlier suit that the suit land was being used as graveyard and the nature of its use could not be changed but in present suit they approached the learned trial Court for an injunction against the defendants from interfering with the suit land which they wanted to use it for agricultural purposes. The petitioners cannot be permitted to approbate and reprobate and even on this ground, I do not find any merit in this petition. Even otherwise as stated in para 14 of the impugned order the lease period of the lease granted in favour of the petitioner has already expired on 30.6.1996 (though the learned counsel for the petitioner contends that it was upto 30.6.1997) and as such the petitioner is not entitled to any interim injunction in his favour.

5. For the reasons recorded herein above, the petition is dismissed with no order as to costs.