
(2014) 09 SHI CK 0155
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 253 of 2014

Paras Ram

APPELLANT

Vs

Ramesh Chand

RESPONDENT

Date of Decision : 08-09-2014

Acts Referred:

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

Citation : (2014) 09 SHI CK 0155

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Advocate : Vikas Bhardwaj, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—This petition is instituted against the order dated 28.6.2013, rendered by the learned Addl. District Judge (I), Kangra at Dharamshala, in Civil Miscellaneous Appeal No. 11-D/XIV/2012.

2. Key facts, necessary for the adjudication of the petition are that the petitioner (hereinafter referred to as the plaintiff) has filed a suit against the respondents-defendants (hereinafter referred to as the defendants) for permanent prohibitory injunction before the Civil Judge (Sr. Divn.), Kangra, H.P. The suit was contested by the defendants.

3. The plaintiff has also moved an application under Order 39, Rules 1 & 2 CPC for restraining the defendants from interfering in the possession of the plaintiff over the suit land, dispossessing him therefrom and threatening to get the revenue entries changed in their favour as "khud kasht" in connivance with the revenue staff. The application was also contested by the defendants.

4. According to the plaintiff, the land comprised in khata No. 135, Khatauni No. 211, Khasra No. 593, measuring 0-28-63 hectares situated in Mohal Tang, Mauza Narwana, Tehsil Dharamshala, Distt. Kangra, H.P. as per Jamabandi for the year 2008-09 is recorded in the ownership of the parties to the extent of half share

each. The plaintiff is owner in possession of half share in the suit land and with respect to the remaining half share of the defendants, he is in possession as "Gair Marussi Tenant". The defendants being head strong persons on 20.5.2012, illegally and forcibly started interfering in the suit land in a bid to dispossess the plaintiff therefrom. The defendants further are threatening to get the revenue entries changed in their favour as "khud Kasht" in connivance with the revenue staff. According to the defendants, their predecessor-in-interest, namely, Sh. Hari Ram, infact had filed L.R.-V application for resumption of land and the said application was allowed by the Land Records Officer, Dharamshala on 11.2.1991 and in pursuance thereof, the defendants had moved an application to the Land Records Officer, Dharamshala for implementation of the resumption order. The revenue officials in compliance thereof visited the spot on 30.5.2012 in order to measure, demarcate and prepare tatima of the land. However, the plaintiff alongwith some ladies came to the spot and started quarreling, fighting and abusing the defendants and revenue officials. The plaintiff has refused to part with the possession of the suit land. In view of this, the resumption order could not be implemented.

5. The plaintiff filed rejoinder to the reply filed by the defendants to the application for ad-interim injunction. According to the plaintiff, the resumption order dated 11.2.1991 already stood implemented. The learned Civil Judge (Sr. Divn.) Kangra, dismissed the application on 18.8.2012. The plaintiff preferred an appeal before the learned Addl. District Judge, Kangra. The same was dismissed on 28.6.2013. In these circumstances, the plaintiff has filed the present petition challenging the order dated 28.6.2013.

6. I have heard Mr. Vikas Bhardwaj, Advocate, learned counsel for the plaintiff and gone through the pleadings and impugned order carefully.

7. What emerges from the material placed on record is that the resumption order was passed by the Land Records Officer, Dharamshala in Case No. 171/D titled as Hari Ram vrs. Kalu on 11.2.1991. The resumption order was qua the suit land. The resumption is qua the land comprised in Kh. No. 593 measuring 0-28-63 hectares. The defendants are legally entitled for resumption of the suit land, as per order dated 11.2.1991. The plaintiff, admittedly, has not assailed the order dated 11.2.1991. It has attained finality. The plaintiff has not placed on record order dated 13.2.2005, alleged to have been passed by the Assistant Collector (Ist Grade), Dharamshala. Once the order has been passed by the competent Authority, i.e. the Land Records Officer, the possession was to be handed over to the defendants. The presence of the revenue officials was necessary in order to measure, demarcate and prepare tatima of the suit land. There is nothing on record to suggest even remotely that the defendants have forcibly tried to dispossess the plaintiff from the suit land. There is neither prima-facie case nor balance of convenience in favour of the plaintiff. The plaintiff has also failed to prove that he would suffer irreparable loss or injury if the ad-interim injunction is not granted in his favour rather the learned Civil Judge (Sr. Divn.), Kangra at

Dharamshala, has allowed the application preferred by the defendants by restraining the plaintiff from interfering, in any manner, in the implementation of the resumption order dated 11.2.1991. There is no illegality or infirmity in the order passed by both the Courts" below. The orders are in conformity with the principles governing the grant of ad-interim injunction.

8. Accordingly, there is no merit in the present petition, the same is dismissed, so also the pending application(s), if any.