
(1999) 09 P&H CK 0093

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 3398 of 1998, Civil Miscellaneous Nos. 9377, 9378, 9379-CII of 1998 and Civil Miscellaneous No. 7082-CII of 1999

R. Kant & Co.

APPELLANT

Vs

R.C.Sood & Co.

RESPONDENT

Date of Decision : 22-09-1999

Acts Referred:

Citation : (2000) 1 RCR(Civil) 121

Hon'ble Judges : Iqbal Singh, J

Advocate : Mr. Sidharadh Sarup, Advocate, Mr. R.C. Setia, Senior Advocate, Advocates for appearing Parties

Judgement

Iqbal Singh, J.—This order will dispose of Civil Revisions 3398 and 933 of 1999 as the same arise out of common order passed by the Civil Judge (Senior Division), Faridabad whereby an application under Section 151 of the Code of Civil Procedure moved by the plaintiffrespondent was allowed to the extent that the plaintiffs shall be entitled to erect/install barbed wire fencing on the boundary line of village Lakkarpur out of the suit land (of the plaintiffs) which is situated within the revenue estate of village Lakkarpur as per the report of the Local Commissioner dated 24.12.1997. It was further ordered that the barbed wire fencing shall have the support of angleiron which shall not be more than 7 feet in height from the ground and the distance between each angle iron shall not be less than 5 feet. The trial court also restrained both the parties from alienating and also from undertaking any further development activities of construction over the said land measuring 36 acres 2 Kanals and 10 Marlas as fully detailed and described in the report of the local Commissioner dated 24.12.1997.

2. It seems that a dispute had arisen between the parties about the identity of the land and therefore, a local commissioner had been appointed. The defendantpetitioners filed objections to the report of the Local Commissioner, which according to the learned counsel for the parties have not been decided as

yet.

3. Civil Revision No. 3398 of 1998 was admitted to regular hearing and the impugned order was modified that pending disposal of the revision petition, instead of barbed wire fencing, pillars shall be erected at such distance as may be considered appropriate so as to identify the boundary line. It was clarified that the defendantpetitioners shall not raise any construction whatsoever on the other side of the pillars i.e. in the land towards village Lakkarpur pending disposal of the revision petition.

4. Learned counsel for the petitioners, at the outset of the arguments, submitted that the objections filed by the defendantpetitioners are still pending disposal and till the objections are decided, the defendants may be permitted to raise construction over their part of the land and they shall remove the construction if the matter is decided against them. To the same effect is the prayer made by learned counsel for the respondents.

5. Learned counsel for the parties have been heard. It is not disputed that the objections against the report of the Local Commissioner are pending disposal before the trial court. Both the parties are insisting for permission of the Court to raise construction over the suit land, though on their own part of the land, till the objections are decided. No doubt the parties are also undertaking to remove the construction to be so raised with the permission of the Court. In the wake of the above situation and having regard to the peculiar facts and circumstances of their case, I am of the opinion that it will be appropriate if the suit itself is ordered to be disposed of at an early date. Issues have already been framed and the suit is now stated to be fixed for evidence of the plaintiffs. Mr. Punchhi undertakes that the plaintiffpetitioners shall conclude their evidence on the date already fixed. In this view of the matter, the trial court is directed to dispose of the suit as early as possible but not later than four months from today even if it may have to resort to daytoday hearing. In other words, the trial court shall fix the dates for evidence of the parties and for hearing the arguments in such a way that the suit is finally disposed of within the aforesaid period. In the eventuality of the trial court being unable to dispose of the matter within four months as already ordered above, it shall refer the matter to this court for further appropriate directions. It is further ordered that the parties shall not alienate any part of the suit land and they shall also not undertake any development activities of construction over the suit land till the final disposal of the suit.

6. The revision petitions are disposed of with the above observations and directions.