
(2013) 08 P&H CK 0357
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 2962 of 2012

Rajinder Singh and Another	Vs	APPELLANT
Gram Panchayat Village Bhogipur and Another		RESPONDENT

Date of Decision : 20-08-2013

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2013) 08 P&H CK 0357

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Advocate : Harkesh Manuja, for the Appellant; Mahavir Sandhu, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

L.N. Mittal, J.—Plaintiffs no. 2 and 3 have filed this revision petition under Article 227 of the Constitution of India impugning order dated 09.04.2012 (Annexure P-11) passed by the trial court and judgment dated 07.05.2012 (Annexure P-12) passed by the lower appellate court, thereby declining temporary injunction to the plaintiffs (petitioners and their brother Sahab Singh-plaintiff no. 1/ respondent no. 2). Case of the plaintiffs is that they are owners as well as in possession of the suit land and respondent no. 1/defendant-Gram Panchayat has no right, title or interest in the suit land, but the defendant threatened to dispossess the plaintiffs from the suit land. Accordingly, plaintiffs sought declaration that they are owners in possession of the suit land and defendant has no concern therewith. Plaintiffs also claimed permanent injunction restraining the defendant from interfering in ownership and possession of the plaintiffs over the suit land in any manner. Temporary injunction to the same effect during pendency of the suit was also claimed by the plaintiffs.

2. The defendant, by filing written statement and reply, resisted the suit and the application for temporary injunction and pleaded that defendant is owner of the suit land, which was previously in possession of Devak Ram Dholidar, who sold

his Dholi rights to defendant vide sale deed dated 21.06.2005. Since then, defendant is owner in possession of the suit land and has been leasing it out every year to highest bidder. Before filing of the suit, the suit land was lastly leased out on 14.05.2010 to plaintiff no. 1 for one year from 14.05.2010 till 13.05.2011 and accordingly, since after 13.05.2011, plaintiffs are in illegal possession of the suit land.

3. I have heard counsel for the parties and perused the case file.

4. Counsel for the petitioners vehemently contended that earlier, father of the plaintiffs was in possession of the suit land under Dholidar Chander Sukh as Gair Maurisi Doyam, as depicted in jamabandi for the year 1964-65 and in subsequent jamabandis and after his death, plaintiffs have been recorded to be in possession of the suit land, as per jamabandi for the year 1989-90 onwards and plaintiffs never surrendered possession of the suit land either to Dholidar or to the defendant, and therefore, plaintiffs being in continuous possession since long are entitled to temporary injunction.

5. The aforesaid contention, although apparently very attractive, is in fact devoid of merit. According to jamabandi for the year 1979-80 and jamabandi for the year 1984-85, one Badlu was in possession of the suit land under Dholidar and plaintiffs or their father were not recorded to be in possession of the suit land in the said jamabandis. Of course, since 1989-90 onwards, plaintiffs have been recorded to be in possession of the suit land as Gair Maurisi Doyam. However, defendant has placed on record documents depicting that plaintiff no. 1 had taken the suit land on lease from defendant Gram Panchayat for the year 2010-11 and the suit was filed sometime after the expiry of lease period of plaintiff no. 1 in November 2011. The plaintiffs have repudiated the ownership of the defendant. Plaintiffs' alleged possession is unauthorized because the lease period expired on 13.05.2011. Consequently, plaintiffs are not entitled to temporary injunction asked for. Plaintiff no. 1 having taken the suit land on lease from defendant for one year only, the defendant cannot be enjoined from dispossessing the plaintiffs, who continued to be in possession of the suit land after expiry of the lease period. Moreover, the plaintiffs have not come to the Court with clean hands. The plaintiffs concealed the material fact of plaintiff no. 1 having taken the suit land on lease from the defendant Gram Panchayat. The plaintiffs also denied the ownership of defendant Gram Panchayat over the suit land, although the plaintiffs allegedly had possession over the suit land under Dholidar, who was Dholidar under the defendant Gram Panchayat.

6. For all the aforesaid reasons, plaintiffs are not entitled to temporary injunction. They have failed to make out necessary ingredients for grant of temporary injunction. They have also concealed material facts and have not come to the Court with clean hands disentitling them to discretionary relief of temporary injunction. There is no perversity, illegality or jurisdictional error in the impugned orders of the courts below so as to warrant interference by this Court in exercise of power of superintendence under Article 227 of the Constitution of

India. The revision petition is devoid of substance and is accordingly dismissed.

7. However, nothing observed hereinbefore shall be construed as expression of opinion on merits of the suit. Civil Miscellaneous applications, if any pending, shall stand disposed of as infructuous.