

Kapur Singh and Others Vs Mukhtiar Singh and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Sept. 25, 1989

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Order 16 Rule 7A

Hon'ble Judges: J.V. Gupta, J

Bench: Single Bench

Advocate: H.S. Mann, for the Appellant; A.S. Cheema with Mr. Baljinder Singh, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

J.V. Gupta, J.

This will also dispose of C.R. Nos. 2373, 2374, 2375 and 2376 of 1989, as the question involved is common in all the cases.

2. The plaintiff-respondents filed a suit for permanent injunction restraining the defendants from taking forcible possession. Along with suit they also

moved an application for ad interim injunction. The same was contested on behalf of the defendants. The trial Court came to the conclusion that

both the parties were claiming possession of the suit land and the revenue record is also of suspicious nature. Therefore, it is difficult to ascertain at

this stage as to which party is in actual possession of the land in dispute. Therefore, both the parties were directed to maintain status quo in respect

of the land in dispute till the final disposal of the case. In appeal, the learned District Judge after appreciating the revenue entries found that the

discretion exercised by the trial Court was not reasonable and the plaintiffs are entitled to the suit land according to the entries made in the revenue

record. Consequently, he set aside the trial Court order and passed the ad-interim order in favour of the plaintiffs restraining the defendants from

taking forcible possession.

3. At the time of motion hearing on June 6, 1989, operation of the Appellate Court order was stayed.

4. Learned counsel for the petitioners submitted that there is a lot of litigation going on between the parties and, therefore, the trial Court rightly

passed the order of status quo as the entries on the revenue record were suspicious. In any case", argued the learned counsel, there was nothing

wrong of illegal in the trial Court order directing status quo as to be interfered with in appeal.

5. On the other hand, learned counsel for the plaintiff-respondents submitted that from the entries made in the revenue record, it was amply proved

that the plaintiffs are cultivating possession of the suit land and hence the ad-interim order has been rightly passed in their favour by the lower

Appellate Court.

6. After hearing the learned counsel for the parties, I am of the considered view that the entries in the revenue record could not be appreciated at

this stage. It was not proper for the lower Appellate Court to go into that matter in appeal. In any case since a lot of dispute is going on between

the parties, the order passed by the trial Court directing to maintain status quo to both the parties was just and proper on the facts and circum-

stances"df the case.

7. Consequently, all the petitioners succeed, the impugned order is set aside and the trial Court is restored. In order to expedite the hearing of the

suit, it is directed that the parties will lead evidence at their own responsibility. However, dasti summons may be given, if so desired, a

contemplated under Order 16, Rule 7-A of the Code of Civil Procedure.