
(2024) 12 SHI CK 0056
High Court Of Himachal Pradesh
Case No: CMP (M) No.646 of 2024

Bhago (deceased)
through LR's & Others

APPELLANT

Vs

Gianoo (deceased)
through LR's & Others

RESPONDENT

Date of Decision: Dec. 21, 2024

Acts Referred:

- Code of Civil Procedure, 1908 - Section 151, Order 22 Rule 4, Order 39 Rules 1, Order 39 Rules 2, Order 39 Rules 2A

Hon'ble Judges: Virender Singh, J

Bench: Single Bench

Advocate: Romesh Verma, Digvijay Bisht, Ashwani Dhiman

Final Decision: Dismissed

Judgement

Sl.

No.", "Name", "Age", "Sex", "Religion",

of, "Address", "Occupation", "Marital Status", "Date of Birth",

non-applicants", "Date of Sale deed", "Amount

1., "1(b)(i) Ashok Kumar s/o late

Shri Lachhman Dass", "9.8.2021", "Rs.6,50,000/-",

2., "1(b)(ii) Bimla Devi widow of

late Shri Lachhman Dass", "10.8.2021", "Rs.6,50,000/-",

3., "1(b)(iii) Maya Devi D/o late

Shri Lachhman Dass",10.8.2021,"Rs.6,00,000/Å,â€œ

4.,"1(b)(iv) Channo Devi D/o late

Shri Lachhman Dass",10.8.2021,"Rs.6,50,000/Å,â€œ

5.,"1(b)(v) Nitu Kumari s/o late

Shri Lachhman Dass",10.8.2021,"Rs.6,00,000/Å,â€œ

6.,"1(c) Ram Pal s/o late Shri

Gianoo",9.8.2021,"Rs.32,00,000/Å,â€œ

7.,"1(d) Hukmi Devi D/o late Shri

Gianoo",10.8.2021,"Rs.32,00,000/Å,â€œ

mean that they have done willful violation of the order.,,,

16. Merely, the notices of the application, under Order 22 Rule 4 CPC, were served upon them, does not mean that they had the knowledge about the",,,

order dated 27.10.2009, as, the said application was under Order 22 Rule 4 of the CPC and order, which is stated to be violated, is passed in an",,,

application, under Order 39 Rules 1 and 2 of CPC. Knowledge of the litigation can be attributed, but, no inference, with regard to the knowledge of the",,,

order dated 27.10.2009, can be inferred.",,,

17. In this case, when, the status quo order was passed, no averments were made, by the applicants, with regard to the actual and factual position,",,,

existing on the spot. Even otherwise, in the application, under Order 39 Rules 1 and 2 of the CPC, which has been registered as CMP No. 458 of",,,

2009, there is no whisper with regard to the relief, by virtue of which, the applicants have requested to the Court to restrain the respondents from",,,

alienating the same. Averments from paragraphs 2 to 6, as well as, prayer clause are reproduced as under:Å,â€œ",,,

Å¢â,~Å“2. That from the perused of grounds of appeal and judgment attached herewith it is appeared that the appellant have a very good prima facie appeal and the,,,

appeal is bound to succeed. The Ld. Court below on wholly conjunctures grounds has dismissed the suit of the applicant/plaintiff. The judgment of the Ld Court,,,

below is liable to be set aside on the substantial question of law.,,,

3. That the Ld. Lower Courts have misread the evidence on record regarding the owner and possession over the suit land and status of parties in the suit property,",,

that undue wattage has been given to the oral evidence of the defendant and the documentary evidence i e revenue records has been ignored by the Ld Courts,,,

hence the finding of the Ld Courts deserves to be set aside.,,,

4. That the applicants/plaintiffs are having a very good prima facie case and the balance of convenience is also in their favour and the appeal is likely to succeed,,,

in all probability.,,,

5. That the applicants will suffer irreparable loss and injury which can not be compensated in terms of money in case the illegal, un authorized acts of the non" ,,,

applicant/ defendant is not stayed upon the land of the applicant/plaintiff measuring 10 Bighas 6 Biswas comprised in Khewat/ Khatuni No 103/107 bearing,,,

Khasra No 7 and 80, kita 2 situated in village Goel Jamala, Hadbast No 77, Pargana Plassi, Tehsil Nalagarh District Solan, through himself or through his" ,,,

laborer, contractors, agents, employees, relatives, friends." ,,,

6. That pending disposal of the appeal the non applicant / respondent is restraining from interfering in the said property, no harm or prejudice will be caused to" ,,,

the non applicant / defendant/respondent. The present appellants /applicants are in possession of the suit land.,,,

It is, therefore, prayed that this application may be allowed in the interest of justice and till the decision in the appeal, non applicant/defendant be restrained" ,,,

from interfering in land measuring 10 Bighas 6 Biswas comprised in Khewat/Khatuni No 103/107 bearing Khasra No 7 and 80, kita 2 situated in village Goel" ,,,

Jamala, Hadbast No 77, Pargana Plassi, Tehsil Nalagarh District Solan in any manner. Any other order may be passed in favour of the applicants which this" ,,,

Hon'ble court deems fit and proper in the interest of equity, law and justice.Ã¢â€" ,,,

18. When, there was no averment, with regard to the apprehension of the applicants, qua the fact that the non-Applicants will alienate the suit land,",,

then, the status quo order dated 27.10.2009 cannot be interpreted in the manner to include the alienation under the said order, as the prayer was with",,,

regard to the fact that the defendants be restrained from interfering in the suit land.,,,

19. At the cost of repetition, the provisions, under Order 39, Rules 2A, are quasi criminal in nature, as, in case of a willful violation, of the order,",,

consequences are of penal in nature and the same are required to be proved like a charge, in the present case.",,

20. The applicants have to establish beyond any shadow of doubt that the non-Applicants had committed disobedience, even though, they had full",,,

knowledge of the same, as, the non-Applicants have taken the defence of not knowing the order of status quo, in this case.",,

21. Moreover, in view of the discussion made above, this Court is of the view that averments made in the application are too short to constitute",,,

willful disobedience",,,

22. In view of the discussion, made above, the applicants are not able to make out a case for taking the action, against the non-Applicants",,,

applicants/respondents, for willful violation of the order dated 27.10.2009.",,

23. Consequently, the present application is dismissed.",,