

(1998) 12 P&H CK 0016

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 4400 of 1998

Hanuman and Others

APPELLANT

Vs

Giarsi Lal and Others

RESPONDENT

Date of Decision: Dec. 15, 1998

Acts Referred:

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

Citation: (1999) 123 PLR 434 : (2000) 1 RCR(Civil) 385

Hon'ble Judges: V.S. Aggarwal, J

Bench: Single Bench

Advocate: L.M. Verma, for the Appellant; Jaswant Jain, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

V.S. Aggarwal, J.

The present revision petition is directed against the order passed by the learned Additional Civil Judge (Sr. Division), Narnaul, dated 24.2.1998 and the learned Additional District Judge, Narnaul dated 26.9.1998. The learned trial Court had dismissed the application seeking ad-interim injunction and the appeal filed by the petitioners was dismissed by the learned Additional District Judge, Narnaul.

2. The petitioners had filed a civil suit for a declaration that they are owners in possession of the agricultural land in controversy and that the respondents have no concern with the ownership and possession of the same. It was claimed further that ownership entry in the name of Giarsi Lal respondent in the revenue record is totally wrong and illegal.

3. The petitioners had claimed that the total land in controversy was owned as Mushtarka Malkam. It was in possession of Bhai Ram father of petitioner No. 1 and Har Lal father of petitioners 2 and 3 and one Yad Ram. They continued to be in

possession of it since 1965. Yad Ram had died in 1972. After his death Bhai Ram and Har Lal continued in occupation of the land. They became owners by adverse possession. Bhai Ram died on 18.11.1996 and Har Lal died on 17.8.1992. Now they claim that they are in possession and have become owners of the land in question. According to the petitioners 12 Kanals and 9 Marlas of land was acquired by Irrigation Department of Haryana. Bhai Ram and Har Lal got compensation and the remaining land remained in their possession. In 1966 mutation was sanctioned in the name of one Bhagoti. She died on 12.4.1968. Her share was inherited by Smt. Sarwan vide mutation No. 2310. Again vide mutation No. 2359 the land was mutated in favour of one Udda son of Jaria. Vide mutation No. 2360 an area measuring 28 Kanals was mutated in favour of respondent No. 1 who was shown to have purchased it in an auction. The plaintiffs-petitioners contended that the name of the respondent-defendants have wrongly been shown in the revenue record. According to them Giarsi Lal defendant has no concern with this land. They apprehend dispossession, and therefore, the ad-interim injunction was prayed.

4. The respondent contested the suit. It was alleged that land in dispute was allotted to them during consolidation. The possession of the same was delivered to them by the Department. The petitioners have no locus standi or cause of action. It was alleged further that petitioners have been dragging the said respondent-defendants into the litigation.

5. Both the Courts below namely, the learned Civil Judge and the Appellate Court returned the finding that the petitioners have no *prima facie* case and ad-interim injunction was refused.

6. On behalf of the petitioners strong reliance was placed on the decision rendered by this Court in the case of Darshan Singh and Ors. v. State of Haryana and Ors., Civil Revision No. 966 of 1997 decided on 12.8.1998. On almost similar facts it was held that the possession of the petitioners in that revision petition should not be disturbed. In the cited case like the respondents, it had been contended that the land was allotted by the consolidation authorities. This court returned the finding that till the final adjudication in the civil Court the possession should not be disturbed.

7. Same is the position in the present case. It is in the fitness of things that the questions in controversy are settled and thereafter the petitioners are dispossessed from the land in question because the title of the property has yet to be established.

8. Accordingly, this revision petition is allowed and the impugned orders are set aside. The respondents are restrained from dispossessing the petitioners from the land in question till final disposal of the suit.

9. It is, however, directed that petitioners shall not be allowed to take undue advantage of the ad-interim injunction that had been granted. They shall only be allowed two opportunities by the trial Court and they shall produce and conclude

the evidence. In default the trial Court will not allow any further opportunity and ad-interim injunction would be deemed to be vacated. The trial be completed within one year from today.