(2012) 03 P&H CK 0090

High Court Of Punjab And Haryana At Chandigarh

Case No: Cr No. 1806 of 2010 (O and M)

Sadhu Singh		APPELLANT
	Vs	
Subash Chander and Others		RESPONDENT

Date of Decision: March 22, 2012

Acts Referred:

- Constitution of India, 1950 - Article 227

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

Bench: Single Bench

Advocate: Jasbir Singh, for the Appellant;

Final Decision: Dismissed

Judgement

L.N. Mittal, J.

CM No. 7734-CII of 2012

Allowed as prayed for.

CR No. 1806 of 2012

1. Plaintiff Sadhu Singh having failed in both the courts below to secure temporary injunction, has invoked the jurisdiction of this Court under Article 227 of the Constitution of India by filing the instant revision petition to challenge only judgment dated 04.01.2012 Annexure P-16 passed by learned Additional District Judge, Gurdaspur. Plaintiff-petitioner alleged that he is in possession of the suit land measuring 8 kanals as tenant under defendants No. 2 and 3 (State of Punjab and Sub Divisional Officer) for 20 years as tenant and has been paying rent against receipts. The plaintiff also alleged that he paid 1/3rd Batai to defendant No. 1 a Junior Engineer for three crops i.e. Kharif 2006 and Rabi and Kharif 2007. According to plaintiff, the said Batai was received by defendant No. 1 on behalf of defendants No. 2 and 3. However, defendants threatened to dispossess the plaintiff from the

suit land forcibly, necessitating the filing of suit by plaintiff for permanent injunction restraining the defendants from doing so. Plaintiff also claimed temporary injunction to the same effect during the pendency of the suit.

2. Defendants resisted the suit and the application for temporary injunction. The defendants pleaded that the suit land is given on rent by defendants No. 2 and 3 on yearly basis. The suit land was given on rent to plaintiff in the years 1986-87, 1987-88, 1991-92 and it was given to Ajit Singh since 1988-89 till 1990-91 and to plaintiff''s son Karam Singh since 1992-93 till 1997-98. The suit land was given to Manjit Singh for 1989-99, to Manmohan Sharma, Junior Engineer for 2000-01 and to Prem Sagar, Junior Engineer in the year2001-02. It was also given to Gurdial Singh, Junior Engineer in the year 2003-04 and then to Subhash Chander, Junior Engineer defendant No. 1 for the years 2004-2008. The plaintiff paid rent only for the years 1992-93 till 1994-95 and then for 1996-97 and 1997-98.

3. Learned Civil Judge (Junior Division), Gurdaspur vide order dated 04.11.2008 Annexure P-14 dismissed the plaintiff''s application for temporary injunction. Appeal against the said order preferred by the plaintiff has been dismissed by learned Additional District Judge, Gurdaspur vide judgment dated 04.01.2012 Annexure P-16, which is under challenge in this revision petition.

4. I have heard Learned Counsel for the petitioner and perused the case file.

5. At the outset, it has to be noticed that order Annexure P-14 passed by the trial Court dismissing plaintiff''s application for temporary injunction has not been challenged in the instant revision petition and therefore, petitioner is liable to fail on this short ground. However, even on merits, the plaintiff has not been able to make out a case for interference by this Court in exercise of reversional jurisdiction.

6. Counsel for the plaintiff-petitioner vehemently contended that the petitioner is in established possession of the suit land for the last twenty years and, therefore, even if he is in unauthorized possession thereof as trespasser, he could not be dispossessed therefrom except in due course of law. Reliance in support of this contention has been placed on judgment of Hon''ble Supreme Court in the case of Rame Gowda (D) by LRs versus Mr. Varadappa Naidu (D) by LRs, 2004(3) BCR 788 and judgment of this Court in the case of Smt. Lila Devi versus Devi Ram of Palwal. 1991 Civil CC 159 (P &H).

7. I have carefully considered the aforesaid contention but find myself unable to accept the same. Case of the plaintiff-petitioner is that he has been paying rent to defendants No. 2 and 3 and had paid the same upto 2006-07. However, the plaintiff failed to produce rent receipts in support of this contention. On the contrary, defendants have placed on record document Annexure D-1 to depict that the land is being rented out to different persons in different years and it was also rented out to the plaintiff during some years. Non-production of rent receipts by the plaintiffs to substantiate his claim in the suit gives rise to adverse inference against him.

8. In addition to the aforesaid, the plaintiff has himself pleaded that he gave Batai to defendant No. 1 in 2006-07 and 2007-08. The plaintiff''s case is that he had been paying rent to defendants No. 2 and 3. However, it is not explained as to why he paid Batai and that too to defendant No. 1 and not to defendants No. 2 and 3. This stand of plaintiff himself that he paid Batai to defendant No. 1 substantiates the claim of defendants No. 2 and 3 that the land had been given on rent to defendant No. 1 by defendants No. 2 and 3 during the aforesaid period. This stand negatives the plaintiff''s plea of established possession over the suit land. Judgments in the cases of Rame Gowda (supra) and Lila Devi (supra) are, therefore, not applicable to the facts of the instant case. Even otherwise, suit land is Government land. Public property has to be protected. Person in unauthorized possession of the public property cannot be granted indulgence by the Courts to perpetuate his wrong to the detriment of public interest. In this view, I am supported by judgment of this Court in the case of Mohan Lal versus Mohan Singh, 1995(3) PLR 564.

9. It is also worth mentioning here that both the courts below have exercised their discretion in the matter of temporary injunction. The said discretion cannot be interfered with by this Court in exercise of revisional jurisdiction because the same is not shown to be perverse or illegal. Impugned orders of the Courts below also do not suffer from any jurisdictional error.

10. For the reasons aforesaid, I find no merit in the instant revision petition, which is accordingly dismissed in limine. However, nothing observed hereinabove shall be construed as an expression of opinion on the merits of the suit.