(1999) 02 P&H CK 0028

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 776 of 1999

Narinder Chand Mehra and Another		APPELLANT
	Vs	
Surinder Chand Mehra and Others		RESPONDENT

Date of Decision: Feb. 23, 1999

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 7 Rule 3, 115

Citation: (1999) 2 CivCC 628 : (2000) 2 CivCC 399 : (1999) 122 PLR 16 : (1999) 3 RCR(Civil) 92

Hon'ble Judges: Iqbal Singh, J

Bench: Single Bench

Advocate: Baldev Raj Mahajan, for the Appellant;

Final Decision: Allowed

Judgement

Iqbal Singh, J.
The trial Court dismissed the application of the defendant-petitioners for directing the plaintiffs-respondents to place on record better particulars regarding the description of property in dispute as well as the claim of plaintiff Surinder Chand Mehra as Secretary of the plaintiff-Trust.

2. After hearing the learned counsel for the petitioner, I find that there is noncompliance of the provisions of Order VII Rule3 of the CPC (hereinafter referred to as "the Code") inasmuch as this is a suit for permanent injunction regarding immovable property and the plaintiffs are required to supply description of the property so that the same can be sufficiently identified. Perusal of the copy of the site plan filed along with the petition shows that it is not at all described properly. What is stated in the plaint is that it is "suit for permanent injunction restraining the defendants from causing any interference over the property situated outside Ghee Mandi, City Centre Area, G.T. Road, Near Ram Talai,

Amritsar owned and possession by the plaintiffs for charitable purposes fully shown in the site plan attached with the plaint as per registered Trust Deed dated 25.3.1938 registered in the Office of Sub Registrar, Amritsar on 28.3.1938 or selling the said property to anybody else in any manner whatsoever." The site plan is also not complete as it does not give the total area with its measurements. It is also not explained how Surinder Chand Mehra (plaintiff) became Secretary of the Trust.

3. Therefore, in view of the fact that the property in dispute cannot be properly identified as per particulars furnished in the plaint and locus standi of the plaintiff can be challenged, the order of the trial Court dated 6.2.1999 declining the application of the defendant-petitioners for a direction to the plaintiff-respondents to place on record better particulars, cannot be sustained. Accordingly, this revision petition is accepted and the impugned order dated 6.2.1999 is set aside. Resultantly, the application filed by the defendant-petitioners under Order 6 Rules 4 and 5 of the CPC is allowed. The trial Court shall now proceed further with the case according to law.

4. Any observation made above shall not affect the merits of the case.