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Kuldeep Singh and Others Vs Baljit Singh and Others

C.R. No. 4262 of 2013

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Sept. 2, 2013

Acts Referred:
Constitution of India, 1950 â€" Article 227

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

Bench: Single Bench

Advocate: Beant Singh, for Mr. B.S. Bhalla, for the Appellant;

Final Decision: Dismissed

Judgement

L.N. Mittal, J.
Defendants (except defendant no. 2/proforma respondent no. 3) have filed this revision petition under Article 227 of the

Constitution of India impugning order dated 04.01.2013 (Annexure P-3) passed by the trial court and order dated 25.05.2013 (Annexure P-5)

passed by the lower appellate court, thereby granting temporary injunction to respondents no. 1 and 2/plaintiffs. Case of the plaintiffs is that earlier,

their father was in exclusive possession of the suit land and now, plaintiffs are in exclusive possession of the suit land as co-owners, but the

defendants threatened to dispossess the plaintiffs therefrom forcibly and illegally. Accordingly, the plaintiffs sought permanent injunction restraining

the defendants from doing so. Plaintiffs also claimed temporary injunction to the same effect during pendency of the suit.

2. Defendants resisted the suit and the application for temporary injunction and pleaded that they have been declared to be co-owners in the suit

land in previous litigation, vide judgment dated 02.03.2012 (Annexure P-1), passed in R.S.A. No. 1728 of 1984 by this Court and in execution

proceedings, they have taken possession of the suit land.

3. I have heard counsel for the petitioners and perused the case file.

4. Counsel for the petitioners reiterated that defendants have been declared to be co-sharers in the suit land, vide judgment Annexure P-1 and

have also taken possession of the suit land in execution proceedings vide Report Roznamcha Patwari dated 15.10.2012 and accordingly,

defendants are in possession of the suit land.

5. I have carefully considered the aforesaid contention, which cannot be accepted because it has been noticed by the appellate court in the

impugned order Annexure P-5 that vide Report Roznamcha dated 15.10.2012, only symbolic possession was delivered to the defendants and

actual possession was not delivered to them. According to the revenue record, plaintiffs are in exclusive possession of the suit land. Consequently,

prima facie, plaintiffs are shown to be in exclusive possession of the suit land, and therefore, the defendants, even as co-sharers, cannot interfere in

possession of the plaintiffs over the suit land and cannot dispossess them therefrom, except in due course of law. Temporary injunction to this

effect has therefore been rightly granted by the courts below. Plaintiffs have made out three necessary ingredients i.e. prima facie case, balance of

convenience and irreparable loss and injury for the grant of temporary injunction.

6. For the reasons aforesaid, I find no perversity, illegality or jurisdictional error in the impugned orders of the courts below, so as to call for

interference by this Court in exercise of power of superintendence under Article 227 of the Constitution of India. The revision petition is meritless

and is accordingly dismissed in limine. However, nothing observed hereinbefore shall be construed as expression of opinion on merits of the suit.