

CS-114-2022-Mohinder Singh Vs. Charan Singh & Ors.

Present:- Sh.Shamsher Singh, Adv., and Sh.Mandeep Singh Multani, Adv.,
for the plaintiffs.

Suit received from the Id. Duty Judge, Kapurthala. Suit entrusted to self being the Vacation Judge. Suit be registered. **Heard.** Ld. counsel for the plaintiffs while arguing on the point of exparte stay, contended that initially the property as fully detailed in the head note of the plaint was owned and possessed by late Dulla Singh and Karam Singh, and the same was inherited by late Gopal Singh, Amar Singh and Kartar Singh, and presently the same has been inherited by the legal heirs of said Kartar Singh, Gopal Singh and Amar Singh. The property in dispute has not been partitioned so far. It is further contended that plaintiffs no.1 & 2 have purchased land from defendants and other co-sharers vide sale deed dated 27.09.2018 of land measuring 5 kanal 0 marla from the share of Narinder Kaur and Baljit Kaur daughters of late Jarnail Singh son of Kartar Singh. The plaintiffs also purchased 3 kanal 10 marla land vide sale deed dated 27.09.2017 from the co-sharer Balbir Singh. The plaintiffs no.3 & 4 also purchased land measuring 9 kanal 7 marla vide sale deed dated 24.03.2022 from Sarvan Singh @ Swaran Singh. The mutation to this effect have already been sanctioned and reflected in the revenue record and the plaintiffs are peacefully and uninterruptedly cultivating the same being co-sharers by using the passage as shown in the rough site plan from A to B. It is further contended that the suit property is adjoining to the only rasta/passage which leads from the main road to Khoo/well halka chah, and there is no other passage to lead to the fields and to Halka chah except the passage in dispute. However, the defendants are trying to damage/demolish the passage in question in illegal and forcible manner, and if the defendants succeed in their ill motive, then the plaintiffs shall suffer an irreparable loss and injury. In support of their case, Id. counsel for the plaintiffs has placed on record documents i.e. revenue record, i.e., copy of fard-jamabandi for the year 2018-19, rough site plan, copy of sale deed dated 27.09.2018 etc.

2. **After hearing** learned counsel for the plaintiffs and going through the documents on record, at this stage, undisputedly the plaintiffs and defendants alongwith others are co-sharer in the property in dispute and having their respective shares in the suit land. It also emerges from the pleading that till today the partition of the suit land has not been taken place and present passage being used by the plaintiffs to approach their land. It is the case of the

plaintiffs that the defendants are trying to damage/demolish the passage with intention to cover the said area of passage in their land. **This**, court is of a view that if exparte injunction is not granted in favour of plaintiffs, and defendants will succeed to demolish/damage the passage/rasta in question, then, the purpose of filing of this case will be defeated. This court is of the considered opinion that the plaintiffs having the prima facie case in their favour and if the defendants are succeed to demolish/damage the passage in question, then, there will be multiplication of litigation and certainly, cause irreparable loss to the plaintiffs. In view of the submissions of the plaintiffs, and facts, and circumstances of the case, at this stage, **the defendants are hereby restrained from damaging/demolishing the passage in question as shown in site plan A to B, till next date of hearing i.e. 13.06.2022.** Let, notice of the suit as well as of the application under Order 39 Rule 1 & 2 read with section 151 CPC be given to the defendants through ordinary process as well as through RC/AD process, on filing of PF, RC copies etc. **for the date fixed.**

3. **Compliance of provisions of Order 39 rule 3 CPC**, be made within twenty-four hours, failing which, ex-parte stay granted in favour of the plaintiffs shall automatically stand vacated & plaintiffs are further directed to take dasti summons and made sure to service of the defendants to appear before this court on the date fixed.

Pronounced:

Dated:-07.06.2022

(Tarwinder Singh)

Dictated directly on the computer

Rahul Kumar
Addl.Civil Judge (Sr.Divn),
Bholath (UDI-PB0348)
(Vacation Judge)