

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Civil Revision No. 221 of 2018
Manzoor Hussain and another
Versus
Ehsan Ahmad and another

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	04.02.2020	Mr. Zulfiqar Ali Abbasi, Advocate for the petitioner.

Through the instant civil revision petition, the petitioners impugn the order dated 21.05.2018 passed by the Court of the learned Additional District Judge (East), Islamabad, whereby their appeal against the order dated 03.01.2018 passed by the Court of the learned Civil Judge, Islamabad was dismissed. Vide the said order dated 03.01.2018, the learned Civil Court allowed respondent No.1's application under Order XXXIX, Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 ("C.P.C.").

2. In the said application under Order XXXIX Rules 1 and 2 C.P.C., respondent No.1 *inter alia* sought a temporary injunction restraining the petitioners from causing illegal interference in the lawful possession of respondent No.1 in property bearing *khewat* No.403, *khatooni* No.613, *hasra* No.648/1 measuring 1 *kanal* and 02 *marlas* located at Street No.02, Hillside, Bani Gala, Mouza Mohra Noor, Islamabad (hereinafter referred to as "the suit land").

3. Learned counsel for the petitioner submitted that the petitioners are owners in possession of the land measuring 15 *kanals* 06 *marlas* comprising of *hasra* No. 648 (previously *hasra* Nos. 1315 and 1316) on the basis of transfer through mutation No.1403 dated

25.03.1934, whereby the petitioners' predecessor-in-interest Syed Ahmed purchased the said land from Mst. Sairan widow of Pannun; that the said mutation was duly incorporated in record of rights maintained by the revenue authorities; that during the course of settlement in the year 1956-57, the entries pertaining to the khasra comprising the suit land were wrongly incorporated in the names of different persons having no nexus with the suit land; that those persons further illegally transferred the suit land to the respondents; that on 03.02.2017, petitioner No.1 filed a suit for declaration, mandatory and permanent injunction *inter alia* for the correction of revenue record and injunction against the respondents restraining them from alienating and dispossessing the petitioners from the suit land; that on 24.01.2017, respondent No.1 had filed a suit for declaration, permanent, mandatory and prohibitory injunctions against the petitioners; that along with respondent No.1's suit, he filed an application under Order XXXIX, Rules 1 & 2 C.P.C.; that the petitioners contested respondent No.1's suit and application; that the learned Civil Judge, Islamabad vide, order dated 03.01.2018, allowed respondent No.1's application for temporary injunction; and that the petitioners' appeal was dismissed by the learned appellate Court vide impugned order dated 21.05.2018.

4. Learned counsel further submitted that the impugned concurrent orders are not sustainable in the eye of law; that the suit land was illegally transferred to the respondents on the basis of wrong entries made in the revenue record and the persons having no nexus with the suit land; that the respondents cannot be termed as *bonafide* purchasers of the suit land without

notice; that the learned Courts below did not give weightage to the basic document, i.e. mutation No.1403, dated 25.03.1934 in favour of the petitioners; that the petitioners had no knowledge about wrong and illegal entries made in the revenue record; and that on preparation of periodical record of rights after every four years a fresh cause of action accrues but this important aspect was not considered by the learned Courts below. Learned counsel for the petitioners prayed for the revision petition to be allowed and for the impugned concurrent orders to be set aside.

5. I have heard the contentions of the learned counsel for the petitioners and have perused the record with his able assistance.

6. The petitioners are father and son. Their legal interest in the suit land hinges upon the alleged incorrect entries incorporated in the revenue record during the course of settlement in the year 1956-57. However, it is an admitted position that as per the title documents, respondent No.1 is the owner of the suit land. On the face of it, the title as well as possession was transferred to respondent No.2 and then to respondent No.1 through the registered sale deeds dated 01.04.2009 and 22.08.2016, respectively. In paragraph 3 of the suit for declaration etc instituted by petitioner No.1, it was pleaded *inter alia* that the suit land has been transferred between 27 defendants through ten different mutations. This *prima facie* goes in line with respondent No.1's claim of possession and it is for the petitioners to prove their possession over the suit land through unimpeachable evidence. This being so, the petitioners are yet to establish their claim about illegal/wrong entries allegedly incorporated in the revenue record. All

the three ingredients for grant of injunctive relief lean in favour of respondent No.1. Until it is proved that some wrong entries were made in the revenue record in favour of vendors, respondent No.1 *prima facie* status is that of *bonafide* purchaser of the suit land through registered sale agreement dated 22.08.2016.

7. In these circumstances, no jurisdictional error or legal infirmity is made out in the impugned concurrent orders dated 03.01.2018 and 21.05.2018 passed by learned Civil Judge and learned Additional District Judge, Islamabad respectively. The revision petition is thus dismissed in limine.

(MIANGUL HASSAN AURANGZEB)
JUDGE

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