

Misc.(J) No. 101/2019

Abdul Noor and ors Vs Sri Satpal Tayal and ors

05-11-2022

Heard both sides.

Perused the C/R.

According to the petitioners, the petitioners have right, title interest over the Schedule-B land. But the O.Ps have wrongfully dispossess the petitioners, trespassed into the schedule-B land and constructed structures thereon. Therefore, the petitioners have prayed for ad interim injunction praying for prohibiting the O.Ps from undertaking any further construction over the schedule-B land and also for mandatory injunction to demolish the pucca boundary walls as well as other constructions undertaken by O.Ps in schedule-B land.

On the other hand, the O.Ps have claimed that they have right, title and interest over the schedule-B land and by virtue of their right, title, they have possessed the said land.

Both sides have adduced supporting documents in favour of their pleas.

Considering the submissions and materials in C/R, it appears that, from the contradictory documents it can not be ascertained at this stage as to whether the petitioners or O.Ps have right, title over the schedule-B land. Thus, I am of the opinion that the petitioners could not establish that they were illegally dispossessed by the O.Ps. Hence, **prima facie case of the petitioners is not proved.**

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Contd....

From the petitioners case, it appears that the O.Ps are in possession of schedule-B land. O.Ps have also claimed their right, title over the schedule-B land as a purchaser, although same title is claimed by the petitioners as well. As O.Ps are in possession of the schedule-B land, thus the **balance of convenience here does not lie in favour of the petitioners.**

The petitioners have prayed for injunction, prohibiting the O.Ps from making any further construction over the suit land and also for mandatory injunction for demolishing the pucca boundary wall and other structures constructed by the O.Ps. Here the possession is with the O.Ps. If the O.Ps will lose the suit then the O.Ps will be at loss due to the cost of the construction born by the O.Ps. The O.Ps will only suffer the consequences of the result of the suit. Nothing appears to me to hold that the petitioners will suffer irreparable loss which can not be compensated in terms of money, if the injunction is not granted. Hence, I hold that the petitioners **will not suffer irreparable loss which can not be compensated by money.**

Hence, in view of the aforesaid observations, I am of the opinion that there is no prima facie case, balance of convenience does not lie in favour of the petitioners and there will be no irreparable loss of the petitioners, if the ad-interim-temporary injunction is not granted. Hence, the prayer for ad-interim-temporary injunction is rejected.

The Misc.(J) case is dismissed on contest with cost.