

(1998) 11 P&H CK 0017

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 3431 of 1998

Labh Kaur

APPELLANT

Vs

Harbans Singh and Others

RESPONDENT

Date of Decision: Nov. 11, 1998

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 39 Rule 1

Citation: (1999) 121 PLR 737

Hon'ble Judges: V.S. Aggarwal, J

Bench: Single Bench

Advocate: R.S. Longia, for the Appellant; G.P.S. Nagra, for the Respondent

Final Decision: Allowed

Judgement

V.S. Aggarwal, J.

The present revision petition is directed against the judgment of the learned Additional District Judge, Ambala, dated August 3, 1998. By virtue of the impugned judgment, the learned Additional District Judge, Ambala had set aside the order passed by the trial court and restrained the petitioner from interfering in the possession of the respondent.

2. The respondent had filed a civil suit for permanent injunction to restrain the petitioner from interfering in his peaceful possession over the land. It is not being disputed that during the pendency of the suit, an application was filed seeking amendment of the plaint. The same has since been allowed and specific portion of the land was mentioned which is stated to be in possession of the respondent.

3. The documents set up by the respondent are alleged to be not genuine by the petitioner. The learned Additional District Judge in this regard held -

"This document so called agreement of mortgage, may not be found to be valid for creating any right of the plaintiff in the immovable property. But for the collateral

purpose it may well be read in evidence and that collateral purpose which can be served here is the fact of possession. This document shows that the plaintiff had come into the possession and he had paid an amount of Rs. 70,000/- to defendant No. 1. The defendant No. 1 has not turned up to contest the claim of the plaintiff. Hence, it stands admitted that he had received amount of Rs. 70,000/-. It also stands admitted that he had parted with the possession of this specific 12 kanals of land. Defendant No. 2 Baljit Singh is the real brother of defendant No. 1. Defendant No. 3 Smt. Labh Kaur is the wife of defendant No. 1. This inter-se relationship between the defendants gives rise to a presumption of a conspiracy among the defendants, at least at this stage."

4. Once the payment as such has been stated to be made amounting to Rs. 70,000/-, prima facie, the learned Additional District Judge rightly concluded that respondents are in possession. In that view of the matter, the findings require no interference and, therefore, revision petition must fail and is dismissed.

Nothing said herein is an expression of opinion on the merits of the matter.