

**(2010) 10 P&H CK 0328**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** C.R. No. 7626 of 2009

Lakhbir Singh

APPELLANT

Vs

Jasbir Singh

RESPONDENT

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**Date of Decision:** Oct. 27, 2010

**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Section 115
- Specific Relief Act, 1963 - Section 6

**Hon'ble Judges:** Alok Singh, J

**Bench:** Single Bench

**Final Decision:** Dismissed

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**Judgement**

Alok Singh, J.

Defendant has invoked revisional jurisdiction of this Court u/s 115 of the CPC challenging the order passed by learned trial Court dated 30.3.2009 thereby decreeing the suit of the Plaintiff-Respondent u/s 6 of the Specific Relief Act.

2. Learned Counsel appearing for the parties fairly stated that as on day Defendant-revisionist is not in possession and Plaintiff-Respondent is in actual physical possession. However, learned Counsel for the Defendant-revisionist states that Defendant-revisionist had never been in possession and he had never taken illegal forcible possession from the tenant-Plaintiff. Be that as it may be, however, fact remains that Defendant is not in possession and Plaintiff is in possession.

3. Learned Counsel for the Defendant-revisionist states that impugned order shall be placed before the criminal Court and shall be used against the Defendant in the criminal case pending against the Defendant filed by the Plaintiff-Respondent.

4. Impugned order was passed in a summary suit and any observation made in a summary suit shall not have any adverse effect in the criminal case. Order in summary proceedings shall not be res judicata in a regular civil suit or criminal

proceedings.

5. However, it is made clear that the question as to whether on the date of institution of the suit u/s 6 of the Specific Relief Act Defendant was in possession and the question as to whether Defendant had in fact at any point of time illegally dispossessed the Plaintiff shall be considered by the criminal Court independently without being prejudiced from the findings recorded in the impugned judgment.

6. In view of the fact that Defendant is not in possession and Plaintiff is in actual possession suit filed by the Plaintiff u/s 6 of Specific Relief Act, present petition has rendered infructuous.

7. Dismissed.