
Baljit Kaur and Others Vs Narinderpal Singh

CR No. 6955 of 2010 (O and M)

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Oct. 26, 2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) â€” Order 39 Rule 1, Order 39 Rule 2#Specific Relief Act, 1963 â€” Section 6

Citation: (2010) 10 P&H CK 0334

Hon'ble Judges: Rakesh Kumar Jain, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Rakesh Kumar Jain, J.

The present revision petition is filed by the Defendant against the order of the Courts below by which application

filed by the Plaintiff under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short "CPC") has been allowed and the Defendant

has been restrained from alienating and changing the existing condition of the suit property, in any manner, except in due course of law till the

disposal of the suit.

2. In brief, the case set up by the Plaintiff is that he is a tenant under the Defendant in a portion comprising of three rooms, one store, one kitchen,

one bathroom-cum-latrine, one vehra and open space situated on the ground floor at the monthly rent of Rs. 800/- . The Defendant had

constructed a shop in the month of April 2000 which has also been rented out to the Plaintiff at monthly rent of Rs. 700/- but by

misrepresentation, the Defendant had taken possession of one room of the residential premises in occupation of the Plaintiff and refused to deliver

back the possession. Rather on 30.7.2007, Defendant along with some persons trespassed the tenanted premises in occupation of the Plaintiff and

caused serious injuries to him and his minor daughter which led to the registration of FIR but despite that the Defendant kept on exerting threats as

a result of which the Plaintiff filed the suit for permanent injunction and Defendant filed ejectment petition. However, despite the injunction, the

Defendant and his associates forcibly trespassed the premises in possession of the Plaintiff on 27.6.2008, caused injuries, took possession of the

ground floor, had started negotiation to alienate the property in dispute and to make certain changes therein. Thus, the Plaintiff filed suit u/s 6 of the

Specific Relief Act, 1963 (for short "the Act") for possession in which present application was filed for restraining the Defendant from alienating

and making changes, in any manner, in the suit property till the disposal of the suit. In the written statement, the Defendant had alleged that he is the

owner of the House No. 4 which was taken by the Plaintiff on rent comprising of two rooms, one store, one kitchen, one bathroom-cum latrine,

one vehra and open space situated on the ground floor at the monthly rent of Rs. 3,000/- and after that in April 2000 took a shop on rent at a

monthly rent of Rs. 1500/-. The Defendant had already filed eviction petition against the Plaintiff which is pending. In order to avoid eviction,

Plaintiff had inducted one Kashmir Singh in the premises in dispute as a sub-tenant without permission of the Defendant. Thus, the tenancy was

admitted but the rate of rent as pleaded by the Plaintiff was denied.

3. Both the Courts below allowed the application of the Plaintiff on the ground that admittedly he is a tenant on the premises in dispute and the

eviction petition is still pending, therefore, the Defendants cannot alienate the suit property during the pendency of the suit because in that

circumstance subsequent purchaser would take the possession and suit filed by the Plaintiff against the Defendant for the purpose of taking

possession u/s 6 of the Act would be seriously affected.

4. Learned Counsel for the Petitioners has argued that the relationship of the parties is that of the landlord and tenant and tenant cannot restrain the

landlord from alienating the suit property.

5. I have heard learned Counsel for the Petitioners. In the normal circumstances, the argument raised by the Petitioners may prevail but in a case

where the landlord has dispossessed the tenant forcibly and the tenant has filed a suit for possession u/s 6 of the Act, in that circumstance, the

landlord cannot be allowed to frustrate the right of the tenant for re-possessioning the property from which he has not been dispossessed in

accordance with law, by way of alienating the same and putting the subsequent purchaser into possession.

6. Thus, in my view, there is no error in the orders of the Courts below by which they have granted injunction to the Plaintiff and restrained the

Defendant from alienating the suit property and changing its existing condition, in any manner, till the disposal of the suit except in due course of

law. Hence, the present revision petition is dismissed. No costs.