

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.2263 of 2001

Date of decision :30.09.2015

Radhey Sham and Others

.....Petitioners

Vs.

Khushi Ram and Others

.....Respondent

CORAM: HON'BLE MR. JUSTICE K.KANNAN

Present:- Mr.Ajay Jain, Advocate for the petitioners.

None for the respondents.

K.KANNAN, J.

The revision petition is against the order passed under Section 6 of the Specific Relief Act, whereby a suit was filed by plaintiff-respondent for possession over the suit land was decreed.

The defendants also claimed the right to be in possession of the property. The defendants' contention was that they were in possession of the said land and pointed to the fact that there have been a compound wall proceeding along side the plaintiffs' house and it was open on three sides and the plaintiffs' exclusive possession could not be said to be established before suit.

The point urged before me by the counsel for the petitioner is that the plaintiff who sought for an action under Section 6 was bound to prove that he had held possession within a period of 6 months before the date of institution of the suit. The nature of property and its physical features are such that the plaintiff could not be said to have ever possessed it.

The respondent has been served but there is no appearance shown to contradict in the contentions raised by the revision petitioner. The plaintiff could not have established previous possession and there was nothing credible in the contention that he was ever in possession of the property.

The order of Court below is set aside and the revision petition is allowed.

30.09.2015
anil

(K.KANNAN)
JUDGE