IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 2150 of 2014 (O&M)
Date of decision: March 23, 2015

Indrawati and others ...Petitioners

Versus

Krishna Devi and others ...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

Present: Mr. Keshav Pratap Singh, Advocate, for
Mr. Abhimanyu Singh, Advocate,
for the petitioners.

Mr. RA Sheoran, Advocate,
for the respondents.

K. KANNAN, J. (Oral)

1. The petitioners are the plaintiffs who sought for the relief of injunction on a document of purchase from the original owner Raj Rani and Veenna Rani by registered instrument on 17.11.2009. The plaintiffs' contention was that the defendant Prabhati was a *gair marusi* tenant and his release has been recorded in the revenue record in rapat No. 40 dated 2.10.2007. The defence was that Prabhati had not surrendered possession of the property and the revenue entry had been fraudulently obtained behind her back. It was also stated that the proceedings were initiated before the Collector for setting aside the entry and the case is reported to be pending.

2. The plaintiffs relied on the revenue entries on the assertion brought through vendors declaration in the sale deed that the property was in their possession and they have transferred it. The trial court granted the relief of status quo without declaring what the status quo was. The plaintiff

had preferred an appeal and the appellate court has held that the issue of possession is contested seriously and the revenue entry which itself is put to challenge cannot afford ground for the plaintiffs to obtain the relief of injunction.

3. The learned counsel appearing for the petitioners would argue that the correctness of the revenue entries must be presumed and they envisage that the *gair marusi* tenants have surrendered the property and recorded as such in the village record it must obtain a high probative value. This could be so in a situation where the revenue entry is not denied at all and if it is denied on a plea that it had been made behind the tenants back, there must be some modicum of evidence to corroborate the entry. Such corroboration can obtain by a letter of release by the *gair marusi* tenant or a statement recorded by any revenue official forfeiting the claim of tenancy and surrender possession of the property before the authority when the rapat was prepared. If there was no corroborating evidence, I would not find fault with the appellate court observation that the plaintiffs did not have a strong prima facie case. The plaintiffs could establish at the time of trial by evidence, the facts relating to delivery but the presumption cannot extend in favour of the plaintiffs as in the present when the validity of the entry is put to challenge and pending before a competent authority.

4. The revision petition is dismissed but I clarify as usual that no observations relating to the possession by the appellate court or this court would come in the way of the plaintiffs to establish what he seeks to prove at the trial.

March 23, 2015 **(K.KANNAN)**
prem **JUDGE**