

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 2749 of 2015 (O&M)

Date of Decision: 24.4.2015.

Surat Singh

.....Petitioner

Versus

Ranvir Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. M.K.Singla, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition challenging the order dated 4.4.2015 (Annexure P-11).

I have heard the learned counsel for the petitioner and have gone through the record available on the file carefully.

Respondent No. 1 has filed suit for mandatory injunction. Along with the suit, respondent No. 1 moved an application for interim injunction. Vide order dated 5.7.2014 (Annexure P-10), the Trial Court dismissed the application for interim injunction. The said order was set aside in appeal filed by respondent No. 1. Hence, the present petition by the petitioner.

Admittedly, Munsha Singh (since deceased) was in possession of the suit property. Petitioner and respondent No. 1 are the sons of Munsha Singh (since deceased). Munsha Singh (since deceased) was member of the co-operative society-respondent No. 2. Munsha Singh (since deceased) had nominated the petitioner to be entered as a member of the society after his death. On the basis of the said nomination, name of the petitioner

was entered as a member of the society. However, respondent No. 1 has based reliance on registered Will dated 28.6.2010 executed by Munsha Singh (since deceased) in his favour. It has been noticed by the Appellate Court that as per the entry in the *khasra girdawri* , the suit land is shown to be in possession of the society. Admittedly, Munsha Singh (since deceased) was in possession of his share/land in question. After the death of Munsha Singh (since deceased), plaintiff-respondent No. 1 inherited his property on the basis of registered Will dated 28.6.2010. It has been noticed by the Appellate Court that the petitioner had moved an application dated 26.3.2012 to Sub Divisional Magistrate praying that respondent No. 1 should be restrained from giving the land on lease to any person and the land should be divided equally between the two brothers. Thus, petitioner could not be *prima facie* said to be in possession of the land in question. The learned Appellate Court rightly presumed that respondent No. 1 was in possession of the land in question after the death of his father on the basis of the Will. In these circumstances, respondent No. 1 had *prima facie* case and balance of convenience in his favour to protect his possession. The learned Appellate Court had, thus, rightly restrained the petitioner from interfering in the peaceful possession of respondent No. 1 over the suit land forcibly and illegally.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

April 24, 2015
Gurpreet