

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR No. 2769 of 2014 (O&M)
Date of decision: 18.09.2015**

Kehar Singh

... Petitioner

versus

Rattan and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Pawan Attri, Advocate for respondent Nos. 1 to 3.

Mr. Ajit Sihag, Advocate for respondent No.4.

K.Kannan, J.

The plaintiff whose claim for injunction was declined on a contest by the respondent, that he is in possession of the vacant land, failed in securing a relief of injunction. This was confirmed by the Appellate Court and the plaintiff is the revision petitioner. The suit property is said to be situate in *abadi deh* and open and unoccupied land. He would contend that access of the property to his own house will be thwarted if any construction comes up. The defendant would give a plan to say that the main entrance is facing street on the West and the plan does not show the existence of street. The plaintiff would also have a 2nd string to the bow, as it were, to contend that property which is remaining vacant and unoccupied in *abadi deh* shall be taken as property vesting in Panchayat to be used in common and the defendant cannot be permitted to do any act in derogation of such common user.

I asked the counsel as to the manner of possession and counsel says that he has brought bricks on the property for future construct and he is using the same for storing rubbish. His objection is that the plaintiff has sought for injunction claiming the property as necessary for his ingress to his property and it was possible for the plaintiff to go through the main gate on the West adjoining the street.

According to him, there can be no scope for injunction for the vacant land which lies east of his house at the backyard.

I have already given the narration that the plaintiff's injunction is sought also on the basis that the vacant property at *abadi deh* is adjoining his land cannot be put to use by the defendant as if it were his own and that the character of property as such *abadi deh* must be retained. I find there is a prima facie case for such a contention and restrain the respondent from doing any act which will alter the character of the property pending the disposal of the suit. The order passed already is set aside and the revision is allowed to the above extent. This order shall not be taken as making possible for the plaintiff to exercise any exclusive right or prevent anyone else from coming into the property that would be incompatible with the user as such common property as canvassed by the plaintiff himself.

(K.KANNAN)
JUDGE

18.09.2015
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