

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.4066 of 2015

Date of Decision.02.07.2015

Improvement Trust, Batala

.....Petitioner

Versus

Mohinder Pal Kaura

.....Respondent

Present: Mr. Ashok Kumar Arora, Advocate
for the petitioner.

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?

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K. KANNAN J. (ORAL)

1. The contention by the petitioner is that the plaintiff is in unlawful possession having not availed the opportunities given to the plaintiff's wife as an attorney for the original allottee for legitimizing the ownership by making the installments payable and taking a sale deed in respect thereof. After his wife's death, he had also been granted opportunities to deposit the amount payable which he had not availed. According to the petitioner, the plaintiff cannot claim possession of the property and the property is stated to be resumed by the petitioner as early as in the year 1984.

2. I asked a specific question to the counsel whether the property remains at the spot as a vacant land or any other modification has been done. The counsel is fair enough to admit that there is a house said to be constructed by the plaintiff and the character of property has since changed. The counsel, however, would forcefully argue that since

the plaintiff's possession is unlawful, he will not be entitled to the equitable relief of injunction.

3. The Possession is in 9-points in law and a person in settled possession must be protected. Though a relief of injunction is invariably discretionary, it will not be extended to persons who have committed a wrong or who are doing an unlawful act. There are exceptions made by three member bench of Supreme Court in Ramegowda (D) by LRs Vs. Mr. Varadappa Naidu (D) by LRs and another 2004(1) RCR (Civil) 519

that even a wrongful possession could be protected in exceptional situation where the person is in settled possession over a period of time. This is a matter relating to an allotment which is made in the year 1978 and the person claiming under such an original allottee must be taken to be in settled possession and if the possession is wrongful, it will be open and appropriate for the petitioner to take suitable action for recovery in the process known to law. The relief of injunction granted would not require any intervention.

4. The order is sustained and the civil revision is dismissed. Nothing stated here in this order will be taken as causing any prejudice or fettering any right to the petitioner as a defendant in suit to state the untenability of the plaintiff's claim or the inappropriateness for granting the relief of injunction at the final stage when the case is disposed of.

(K. KANNAN)
JUDGE

July 02, 2015
Pankaj*