

**In the High Court of Punjab and Haryana at Chandigarh**

CR No.4324 of 2013

Date of decision: 21.07.2015

Piara Singh

.....Petitioner

Versus

Gurmukh Singh and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

**Present:** Mr.Naveen Sharma,Advocate for the petitioner.

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SABINA, J

Petitioner has filed this petition under Article 227 of the Constitution of India challenging the order dated 6.3.2013 .

Learned counsel for the petitioner has submitted that the trial Court had rightly allowed the application moved by the petitioner under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908,whereas, the appellate Court had erred in setting aside the said order. Petitioner was in possession of the property in question being proprietor of the village. Moreover, petitioner was in possession of some portion of the suit land on the basis of agreements dated 23.11.2006, 11.4.2007 and 09.11.2006. In support of his arguments learned counsel has placed reliance on **Mela Vijay Dashmi Sabha vs. Amar Nath and another** 1995(3) R.R.R.584 wherein it was held that a person,who was not proprietor of the village, cannot make any claim on the joint land of proprietors on the basis of terms or breach

of terms of 'Wazib-Ul-Arz' between the proprietors.

In the present case, petitioner has filed the suit for permanent injunction claiming that he was in possession of the suit property. The case of the petitioner was that the suit property was described as *Shamlat deh Hasab Rasas Zar Khewat*. In the revenue record, in the column of cultivation, entry is, "Makbuja Malkan". Maksudan Lal, Bhawani Dass and Ram Dass have share in khasra No. 22/7 and 22/8 being proprietors of the village and other khasra numbers were owned by the plaintiff being proprietor of the village. Bhawani Dass has sold his possessory right to the plaintiff by agreement dated 23.11.2006 and had delivered possession of the land to the plaintiff. Maksudan Lal sold his share out of the suit property to the plaintiff vide agreement dated 11.4.2007 and possession of the same had been delivered to the plaintiff. Ram Dass had sold his share out of the suit land to the plaintiff vide agreement dated 9.11.2006 and had delivered possession of the property in question at the spot to the plaintiff.

Along with the suit, an application for temporary injunction was filed. Learned trial Court allowed the application for temporary injunction vide order dated 13.3.2012 and directed the parties to maintain status quo with regard to possession over the property in dispute. In appeal filed by the defendants, order passed by the trial Court was set aside by the appellate Court vide impugned order dated 6.3.2012. Hence, the present petition by the plaintiff.

Learned appellate Court rightly held that so far as the agreements in question were concerned, the same could not be

termed as documents of title. The vendors were not party to the suit. Although, as per the agreements, possession had been delivered to the plaintiff but the agreements were unregistered documents and could not be relied upon while granting the relief of temporary injunction.

In order to establish the fact that the petitioner was in possession of the remaining suit land being proprietor of the village, learned counsel for the petitioner has referred to Annexure P3 report made by Patwari and Naib Tehsildar. However, a perusal of Annexure P3 reveals that the said report does not make mention of any khasra numbers.

Learned counsel has next placed reliance on Annexure P2, the report made by Patwari and Naib Tehsildar on an application moved by the petitioner. However, a perusal of the said report reveals that the same does not relate to the suit property.

Thus, learned appellate Court had rightly held that the petitioner had no, prima facie, case or balance of convenience in his favour and was not entitled to be granted the relief of temporary injunction. In the facts and circumstances of the present case, the judgment relied upon by the learned counsel for the petitioner fails to advance the case of the petitioner.

No ground for interference is made out.

Dismissed.

**(SABINA)  
JUDGE**

**July 21, 2015**