

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

(116)

CR No.4669 of 2015

Decided on: July 27, 2015.

Inderjeet Singh

.... Petitioner

Versus

Balwinder Kaur

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Janak Singh Bhinder, Advocate,
for the petitioner.

M.M.S. BEDI, J (ORAL)

Vide impugned order, the Appellate Court has dismissed plaintiff's appeal affirming the order passed by the trial Court, dismissing the application under Order 39 Rules 1 and 2 CPC filed by the plaintiff-petitioner.

The plaintiff has filed a suit for permanent injunction against the defendant-respondent regarding the house in dispute which was owned by his father Babu Singh.

On the basis of material placed on record, both the Courts below have prima facie found that the father of the plaintiff-petitioner Babu Singh had transferred his half share in the property in favour of his son Jagroop Singh and remaining half to his other son namely Bharpur Singh. The mutation has also been sanctioned in favour of Jagroop Singh and Bharpur Singh. Jagroop Singh brother of the petitioner had transferred his share in favour of his wife Baljit Kaur vide a sale deed, who had further sold the said half share in the house to the defendant vide sale deed dated

21.02.2014. The Courts below have arrived at a conclusion that defendant being owner in possession of the property and plaintiff having not been able to establish his possession, is not entitled to interim injunction.

Learned counsel for the petitioner has drawn my attention to the cross-examination of the plaintiff-respondent wherein it has been stated that the petitioner had installed one meter in the house in dispute and the defendant had filed an application for dismantling the same and that he has installed one wire outside the house in dispute. On the basis of said cross-examination it is sought to be established that the possession of the plaintiff has been impliedly admitted by the defendant-respondent.

I have considered the contentions of learned counsel for the petitioner.

The assessment of the rights of the parties on the basis of vague admission in the cross-examination is not sufficient enough to decide the application for interim injunction. It will be expedient, in the interest of justice, in case the parties are permitted to establish their rights by producing evidence.

No ground is made out for interference in the impugned order. However, the trial Court is directed to expeditiously decide the case as it is apparent that the evidence of the defendant-respondent is almost complete.

Disposed of with above said directions.

(M.M.S. BEDI)
JUDGE

July 27, 2015
harsha