

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 5153 of 2015
Date of Decision: September 4, 2015

Gurmail Singh

..... Petitioner

Versus

Devki Nandan and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sarju Puri, Advocate
for the petitioner.

Amit Rawal, J (Oral)

The challenge in the present petition is to the impugned orders dated 8.10.2013 and 13.5.2014 whereby the application filed by the petitioner-plaintiff under Order 39 Rule 1 and 2 CPC in a suit for permanent injunction has been declined.

Learned counsel for the petitioner-plaintiff submits that both the courts below have committed illegality and perversity in dismissing the application on the premise that the plaintiff-petitioner is in exclusive possession of the area and therefore was entitled to injunction as sought/prayed for.

I have heard learned counsel for the petitioner and appraised the paper book.

No doubt that there is specific pleading in the plaint but from the perusal of the impugned orders, it reveals that the property is jointly owned by the petitioner-plaintiff and the respondents-defendants. In essence, the revenue record shows that

both the parties are in joint possession of the property.

In view of the law laid down by the Division Bench of this Court in **Bachan Singh Vs. Swaran Singh 2000 (3) RCR (Civil) 70** that a co-owner cannot seek injunction against another co-owner and the remedy lies elsewhere.

Learned counsel for the petitioner-plaintiff submits that an appropriate direction be issued to the trial court to decide the suit expeditiously.

The prayer is fair, legal and justified. The trial court is directed to expedite the disposal of the suit as early as possible, preferably within a period of one year.

The revision petition, in my view is devoid of merits. The impugned orders are upheld. The revision petition is accordingly dismissed.

(AMIT RAWAL)
JUDGE

September 4, 2015
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