

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CR No. 5273 of 2015

Date of decision : August 19, 2015

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Banarsi Dass

.....Petitioner

Versus

Mulkh Raj and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Sudhir Paruthi, Advocate for the petitioner.

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1. *Whether Reporters of Local Newspapers 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?*

RITU BAHRI, J

The petitioner-defendant no.1 has come up in this revision petition against the order dated 4.10.2014 passed by the Additional Civil Judge (Senior Division), Jalandhar, whereby the application filed by the respondent no.1-plaintiff for ad interim injunction has been allowed and order dated 30.5.2015 passed by the Additional District Judge, Jalandhar, whereby an appeal against the order of the trial Court was dismissed.

Respondent no.1-plaintiff Mulkh Raj filed a suit for permanent injunction restraining the petitioner-defendant no.1 Banarsi Dass from raising any construction of any type in the portion and further from constructing any basement in the tenanted portion of

the property. The stand of the petitioner-defendant no.1 was that he was inducted as tenant in this property by brother of the respondent no.1-plaintiff i.e respondent no.2-defendant no.2 Jeet Raj in the year 1988. Rent agreement was executed on 1.1.1992 and respondent no.2-defendant no.2 had been issuing receipt of rent. In the first week of July 2014, on an offer made by respondent no.2-defendant no.2, defendant no.1 purchased the shop on 11.7.2014 and an agreement was executed between the parties. Full and final consideration was made by petitioner-defendant no.1 to respondent no.2-defendant no.2. Respondent no.2-defendant no.2 also gave an affidavit of his consent to get the electricity connection transferred. Respondent no.1-plaintiff and respondent no.2-defendant no.2 are real brothers and pursuant to a final settlement, the suit property came to the share of the respondent no.1-plaintiff. The petitioner-defendant no.1 could not produce any valid registered agreement to prove that he had purchased the property in question from respondent no.1-plaintiff. Reliance was placed on an agreement to sell dated 11.7.2014 but it did not confer any title to the petitioner-defendant no.1. Earlier, the petitioner-defendant no.1 was inducted as a tenant in the year 1988 but he failed to lead any evidence that before purchasing the said property from respondent no. 1-plaintiff, he had surrendered the possession of the tenanted premises to Mulkh Raj. The respondent no.1-plaintiff being the owner of the property, the balance of convenience was in his favour.

Both the Courts have rightly restrained the petitioner-

defendant no.1 from raising any construction over the suit property.

The petitioner-defendant no.1, being a tenant can seek his suitable

remedy before the Rent Controller to avoid multiplicity of litigation.

The impugned orders do not require any interference as no illegality or infirmity has been found therein.

In view of all that has been discussed above, present revision petition is dismissed.

August 19, 2015

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(**RITU BAHRI**)
JUDGE