

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

CR No.543 of 2015.  
Decided on:-23.01.2015.

Mohit Lohia. ....Petitioner.

Versus

M/s DLF Universal Limited and another .....Respondents.

CORAM: HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON.

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Present:- Mr. Lokesh Sinhal, Advocate  
for the petitioner.

**Dr. Bharat Bhushan Parsoon, J.**

A suit for declaration and permanent injunction is pending adjudication before the civil court at Gurgaon. The plaintiff, petitioner herein, alongwith the suit had filed an application under Order XXXIX Rules 1 and 2 read with Section 151 CPC for restraining the defendants from dispossessing the plaintiff or demolishing his office forcibly and illegally. The civil court as well as the first appellate court vide orders dated 6.2.2014 (Annexure P-1) and 28.8.2014 (Annexure P-2) respectively have found no merit in the application of the plaintiff and consequently, the same was dismissed.

2. The main aspect which weighed with the courts below is that the plaintiff, petitioner herein, was not found to be in possession of any specific portion of the suit land which is unpartitioned and joint of the

parties.

3. By way of this revision petition, impugning both the orders, counsel for the petitioner has urged that there is admission of the defendants regarding possession of the property resting with the plaintiff-petitioner and further that this question of possession did not engage the attention of the courts below to the extent and intensity it required from them.

4. Counsel for the petitioner was called upon to pin point any document or material whereby he could show his exclusive possession on any specific portion of the joint land. There is neither any revenue record nor any other material to show his exclusive possession. Even pleadings of the parties do not make out a case of any admission of the defendants about possession of the plaintiff, petitioner herein on any specific portion of the land.

5. Concedingly, the property is still joint and the plaintiff, petitioner herein, is only a co-sharer. To maintain a suit by a co-sharer against other co-sharers for seeking a decree of permanent injunction not only exclusive possession is required to be proved but there is also necessity of proof of his threatened ouster by the other co-sharers from the said possession.

6. At this stage, it would be relevant to mention para 11 of the impugned order dated 28.8.2014 (Annexure P-2) of the first appellate court, which capsules the entire matter in controversy, as below:

*“As regard to seeking relief of injunction, plaintiff in his capacity as co-sharer was required to establish that he was in established possession on a specific portion but that is not the case before the Court and there is absolutely no document available on the file to establish his possession. Plaintiff should*

*have placed on file the electricity bills thereby showing that a specific portion was being used as office since long but that is not the case here. Apart from that, there is no document available on the file that any such permission was sought from any authority before raising construction of office by the plaintiff or by his predecessor-in-interest. Plaintiff-appellant has not even given correct dimensions of the portion of joint property which was in his exclusive possession and for which he is seeking ad-interim injunction.”*

7. Keeping in view the concurrent findings of fact recorded by the courts below against the petitioner-plaintiff and he having failed to prove either exclusive possession or real threat of dispossession, no ground is made out to interfere with the impugned orders. Even otherwise, there is no proof that the plaintiff or his predecessor-in-interest was ever allowed to raise construction on the suit land. Merely placing of a portable container on the suit land which is alleged to have been placed forcibly and illegally on 19.1.2014 i.e. during pendency of the litigation, by no means can be taken as attribute of possession of the petitioner-plaintiff much less established one.

8. Sequelly, no ground to interfere with the impugned orders is made out; affirming the same, this petition, being devoid of any merit, is dismissed.

**January 23, 2015**  
'Yag Dutt'

**(Dr. Bharat Bhushan Parsoon)**  
**Judge**

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. Whether to be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes