

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

**CR No.5569 of 2015 (O&M)
Date of decision: 10.09.2015**

Pal Singh Sandhu

...Petitioner

versus

Resham Kaur and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Namit Gautam, Advocate,
for the petitioner.

RITU BAHRI, J.

CM No.18170-CII of 2015

The application is for making correction in the head note of the main petition.

In view of the averments mentioned in the application, same is allowed and in the head note of the petition word “allowed” be read as 'dismissed’.

Registry to carry out necessary corrections in the head note of the petition.

CR No.5569 of 2015

Challenge in this petition is to the order dated 06.07.2015 (Annexure P-10) passed by the Additional District Judge, Jalandhar, whereby appeal filed by the petitioner against the order dated 12.07.2013 (Annexure P-5), has been dismissed.

Plaintiff-petitioner filed a suit for mandatory injunction directing the defendants-respondents to vacate the property in question. During the

pendency of said suit, the defendants-respondents moved an application under Section 151 CPC alleging that the plaintiff-petitioner had threatened to dispossess them from the suit property illegally and forcibly. The said application was allowed by the trial Court vide order dated 12.07.2013 by restraining the plaintiff-petitioner from dispossessing the defendants during the pendency of the trial. On appeal, the lower appellate Court has affirmed the order of the trial Court by making reference to the judgments delivered by the Hon'ble Supreme Court in Tanusree Basu & others Vs. Ishani Prasad Basu & others, 2008 (4) SCC 791 and Ramji Gupta & another Vs. Gopi Krishan Agarwal (D) & others, 2013 (2) CCC 668, wherein it has been held that under the scheme of CPC, there is no provision for passing an injunction order in favour of the defendant, however, under Section 151 CPC, there is no restriction on the inherent powers of the Court to pass such orders as are in the interest of justice.

Keeping in view that the plaintiff-petitioner has filed a suit for mandatory injunction seeking possession of the suit property, the possession of the defendants is admitted. However, during the pendency of the trial, the defendants-respondents apprehended that the plaintiff-petitioner intended to dispossess them illegally and forcibly. In such a situation, application under Section 151 CPC, filed by the defendants-respondents, was maintainable.

In view of the above, no ground is made out to interfere in the impugned order.

Dismissed.

(RITU BAHRI)
JUDGE

10.09.2015
ajp