

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 5805 of 2014

Date of Decision: March 10, 2015

Gurbachan

.....Petitioner

Vs.

Rajesh Kumar and ors.

.....Respondents

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

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Present:- Mr. Jatin Hans, Advocate
for the petitioner.

None for respondent No.1.

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

This order will dispose of a revision petition filed by the plaintiff- petitioner against order dated July 7, 2014 allowing an application under Order 1 Rule 10 CPC filed by respondent No.1. The plaintiff- petitioner has filed a suit for permanent injunction against Azad and Vijay, sons of Leelu to restrain them from interference in the peaceful possession of the suit property mentioned in the heading of the plaint and for restraining them from changing the nature of the plot or to alienate the same. Respondent No.1 Rajesh Kumar moved an application under Order 1 Rule

10 CPC claiming that he is owner in possession of the suit property on the basis of an agreement of sale dated April 3, 2008 and that the plaintiff has got no concern with the property in dispute. He claimed that the property in dispute after partition had fallen to the share of Ram Kishan, the brother of plaintiff and after the death of Ram Kishan, Mausami, his widow being in need of money had sold the property to respondent No.1 vide agreement of sale as such he was owner in possession of the suit land. The trial Court has allowed the said application.

I have considered the facts and circumstances of this case.

Counsel for the petitioner has submitted that the petitioner do not seek any relief against the added respondent as he has got no threat to his possession at the hands of the applicant. The plaintiff-petitioner has sought relief of injunction against defendants No.1 and 2 (respondents No. 2 and 3) as it is not the case of respondent No.1 that suit for injunction filed by the plaintiff- petitioner against the Azad and Vijay is a collusive suit and that the plaintiff wants to grab the property in the garb of an injunction order. It is settled principle of law that the plaintiff is dominus litus i.e. master of his suit and any relief granted to a plaintiff against the defendants impleaded in the case would be a judgment in personam against the persons against whom the decree is sought. Since no relief is claimed against Rajesh Kumar and the claim of Rajesh Kumar that he on the basis of an unregistered agreement of sale has become owner in possession is not sufficient enough to implead him as a party.

In view of the above, the petition is allowed. The impugned order dated July 7, 2014 is hereby set aside observing that any judgment, decree or order passed in the case will not be effective on any right, title or interest of Rajesh Kumar. It will be open to Rajesh Kumar to claim his rights by filing suit on the basis of agreement of sale relied upon by him while moving the application under Order 1 Rule 10 CPC.

March 10, 2015
sanjay

(M.M.S.BEDI)
JUDGE