

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

CR No. 6228 of 2014 (O&M)
Date of decision: April 21, 2015

Dr. Dhavneet Singh

...Petitioner

Versus

Narinder Pal Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

- 1. Whether Reporters of local papers 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?**

Present: Mr. Avnish Mittal, Advocate, with
Ms. Aparna Singal, Advocate,
for the petitioner.

Mr. Kanwaljit Singh, Senior Advocate with
Mr. Keshav Pratap Singh, Mr. Ajaivir Singh, and
Ms. Japneet Kaur, Advocates,
for the respondent.

K. KANNAN, J. (Oral)

1. The plaintiff who sought for an injunction against the defendant from using toilet facility as available to a property which was originally demised in his favour and later purchased obtained the relief as an interim measure against the defendant. The defendant was likewise a tenant of an adjoining property which was later purchased from his landlord. The injunction was granted by the trial court and it was set aside in the appeal by the defendant, who contended that he was purchaser of 23.5% share which included the portion where the toilet existed, whereas the plaintiff who is purchaser of 16.5% share from his landlord had a right to use the toilet only

when he was a tenant, the same way as the respondent was and once the

defendant has purchased the property including the toilet, the facility cannot be extended to the plaintiff.

2. The learned counsel for the petitioner points out that in the rent deed which is executed before his purchase, the defendant had also been a witness which specifically spelt out the petitioner's right to use the toilet as well. When the defendant purchased 23.5% share his sale deed does not make any reference to the toilet and he cannot, therefore, claim a right which his document does not provide.

3. The learned Senior Counsel appearing on behalf of the respondent states that contemporaneous to the document of purchase in his favour, there was an agreement which was the evidence for delivery of property to the defendant and that agreement specifically spelt out that the toilet was also handed over. The respective vendors were members of the same family and the property which was sold in respect of the larger share including the toilet while the property purchased by the petitioner did not so include. He would not deny the fact that the petitioner and the respondent enjoyed the facilities of toilet when they were both tenants but after the purchase, the respective rights stand determined under the sale deeds and the plaintiff cannot ask for larger right.

4. I will find the toilet as a necessary facility and not a comfort. There is an issue of whether the toilet was also made a subject of sale and whether the defendant whose document does not make a reference of the toilet but would rely on an agreement to refer to a toilet as being included, it would require evidence to be brought at the trial. Prima facie, I will find the hardship that would be caused to deny the plaintiff the benefit of what he enjoyed as a tenant to be immense and hence the facility must continue and

the balance of convenience shall be in favour of the plaintiff to provide for the relief in the manner the trial court did.

5. The impugned order is set aside and the revision petition is allowed. The parties may use all the resourcefulness for expeditious disposal of the case.

April 21, 2015
prem

(K.KANNAN)
JUDGE