

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

Regular Second Appeal No.4947 of 2011 (O&M)

Date of decision: 30.7.2015

Kala Singh

... Appellant

Versus

Dalip Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.S.K.Aneja, Advocate,
for the appellant.

1. To be referred to the Reporters or not? Yes.
2. Whether the judgment should be reported in the Digest? Yes.

RAJIV NARAIN RAINA, J.(Oral)

In a suit for simpliciter injunction for restraining the defendant in interfering in the peaceful possession of the plaintiff and to desist from forcibly divesting him of the possession except in accordance with law, the defendant has been restrained by the courts below from interfering with the possession of the plaintiff over the land in dispute by issuing a permanent injunction subject to due process of law.

2. The courts have recorded concurrent findings of fact that plaintiff was in possession of the suit land and, therefore, not open to be disturbed. The well known tests for grant of injunctions stand satisfied inasmuch as the plaintiff had a strong *prima facie* case on merits; the balance of convenience was in favour of the plaintiff and against the

defendant and if the plaintiff was forcibly dispossessed, he could not be adequately compensated in terms of money. When the three cardinal principles have been kept in mind by the subordinate courts even without expressly saying so in the judgment in as many words, this Court would be loathe to interfere with the discretion judicially exercised in issuing a permanent injunction to maintain the status quo.

3. Learned counsel for the appellant submits that in proceedings under Section 107 read with Section 151 of the Code of Criminal Procedure, the parties were called to the area police station for a forced compromise where the statement was recorded which is touted as an admission. The defendant claims that the plaintiff made the admission that the defendant was in possession of the disputed land. This is said to have been made on May 18, 2010 while the suit was in progress after the issues had been framed for trial. In the evidence of the defendants, the papers of the *Kalandra* proceedings were produced but those documents were marked documents and were not duly exhibited on record and, therefore, the courts did well in not taking cognizance of those proceedings as evidence of an admission adverse to the plaintiff. Ordinarily, the rule of law requires that agreements and compromises so effected in police stations are to be viewed with extreme circumspection and reasonable suspicion and are not to be accepted readily unless there is unimpeachable corroborative and contemporaneous evidence that the parties were ad idem on the existence of a certain state of things and their agreement was without the colour of threat, duress or coercion, even if forged in a police station.

4. I do not think this is a fit case in the facts calling for any interference against the concurrent findings recorded by the courts below holding that the plaintiff was in actual physical possession of the suit property on the date of the suit. Accordingly, the appeal is dismissed in limine, after it has remained pending for the last about 5 years in preliminary stage of motion hearing without notice issued to the opposite side. And counsel relentlessly seeking adjournments one after the other and for a rather long time. Imagine how many times and for how long and at what distances this appeal paper book was carted to and fro by court staff from the store to the courtroom with counsel craving indulgence of the court by either absence when the case was called for hearing or by filing adjournment slips with white lies, which tales the court rarely disbelieves and asks no embarrassing questions on the justification for the adjournment sought, leaving it to its politeness, age-old grace and for the respect it has for the Bar.

(RAJIV NARAIN RAINA)
JUDGE

July 30, 2015
Paritosh Kumar