

231.

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

Civil Revision No.3940 of 2014 (O&M)

Date of decision:21.04.2016

Prem Singh Chela/son of Ram Dass Chela Mahant Lachhman Dass
Chela Swami Ram Mohan Dass Sarparasti Thakur Dwara Dr.Pohlo
Ram.

... Petitioner

versus

Sukhdev Singh @ Sukhdev Ram

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Gagandeep Singh Sirphikhi, Advocate,
for the petitioner.

Mr. Anil Chawla, Advocate,
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The revision is against the concurrent orders of dismissal of interim prayer for injunction against the defendant who is the petitioner's brother. The plaintiff's claim to exclusive possession was sought to be relied on with reference to a suit filed by the defendant where he had contended that he was a tenant under a Trust. The plaintiff's further reliance was on a previously instituted suit by the defendant referring to the revenue entry showing the plaintiff and

the defendant to be in joint possession. The grievance is that both these documents have not been considered.

2. If both the documents were to be considered, it cannot still make an inference that the plaintiff is in possession of property. The court that decides application under Order 39 Rules 1 and 2 CPC would require a prima facie proof of the plaintiff's assertion regarding his own enjoyment. Neither assertion by the defendant that he is a tenant under the Trust nor a contention that the entry shown in the revenue records that the plaintiff and the defendant are in joint possession, allow for the plaintiff to contend that he is in exclusive possession of the property.

3. I find no error in the order for interference in revision. Needless to state that the finding that the plaintiff did not have a prima facie case to grant an injunction will not be used against the plaintiff in the course of trial if he is able to show exclusive possession and allow for such proof of possession to claim the relief of injunction against the respondent.

4. The revision petition is dismissed but with the above observations.

(K.KANNAN)
JUDGE

21.04.2016
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