

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

CR 5258 of 2016
Date of decision: 17.08.2016

Rajinder Kumar Khanna

.....*Petitioner*

vs

Daulat Ram Khanna and others

.....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Vishal Aggarwal, Advocate
for the petitioner

-.-

Rekha Mittal, J. (Oral)

The present petition has been directed against order dated 26.05.2016 (Annexure P1) passed by Civil Judge (Junior Division) Ludhiana whereby the application of the respondent/plaintiff for permitting Building Expert to inspect the property in occupation of the petitioner and pro forma respondent, has been allowed.

Counsel for the petitioner has submitted that as the property in possession of the petitioner and pro forma respondent was previously owned by Shri Gurbax Lal predecessor-in-interest of the petitioner and pro forma respondent which bears No. 4275 and is not a part of property bearing No. 4287 in respect whereof the respondent/plaintiff has filed a suit for mandatory injunction, the trial Court has committed a grave error rather illegality by permitting a building expert on behalf of the respondent/plaintiff to enter the property in occupation of the petitioner and take measurement.

I have heard counsel for the petitioner, perused the paper book and the order impugned.

There is a serious dispute between the parties if the property in occupation of the defendants including the petitioner is a part of property No. 4287 (new) 649-650 (old) situated in street No. 1, New Madhopuri, Ludhiana. The respondent/plaintiff has filed the suit seeking directions to the defendants to hand over vacant possession of property No. 4287 as depicted in red colour in the site plan, stated to be given to Shri Gurbax Lal for use. It is a disputed question of fact to be decided on the basis of evidence to be adduced by the parties whether the property in possession of the petitioner and his co-defendant bears No. 4275 or is a part of property No. 4287. As the respondent/plaintiff has claimed vacant possession of the property in occupation of the petitioner and his co-defendant and said property has been depicted in the site plan in red colour, no prejudice would be caused to the petitioner if the exact measurement of the property in occupation of the petitioner and his co-defendant is brought on record that may rather facilitate elucidation of the real question in controversy. In this view of the matter, I do not find any error much less illegality in the discretion exercised by the Court, warranting intervention.

Dismissed.

(Rekha Mittal)
Judge

17.08.2016
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No