

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

**CR No.8539 of 2015 (O&M)  
Date of decision: 04.04.2016**

Assa Singh & others

.....Petitioners

Versus

Gurnam Singh & others

.....Respondents

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**CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH**

**Present: Mr. Vikram Anand, Advocate  
for the petitioners.**

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**DARSHAN SINGH, J (ORAL)**

The present civil revision has been preferred by the petitioners/defendants against the order dated 11.05.2015 (Annexure P-8) passed by the learned Additional District Judge, Kapurthala, whereby the petitioners/defendants have been restrained from interfering in the possession of the respondents/plaintiffs over the land in dispute otherwise than in due course of law during the pendency of the suit.

2. Initiating the arguments, learned counsel for the petitioners contended that the respondents/defendants are owners in possession of the suit property. Earlier Durga Dass son of Dhirat Ram was owner in possession of suit property who had died on 01.03.2012. After his demise, his legal heirs

had become the owners in possession of the suit property who had sold the same to the defendants vide sale deed dated 30.05.2013 alongwith all the rights appurtenant thereto for a sale consideration of Rs.1,21,00,000/- and delivered the physical possession of the suit land to the petitioners/defendants. Earlier to them, Durga Dass, the predecessor in interest of the vendors has been shown to be owner in possession of the suit property in the jamabandi for the year 2009-10. He contended that the possession of the plaintiffs/respondents over the suit land has not been established. They have not proved in which capacity they are in possession over the suit land. The civil Court decree obtained by the plaintiffs is only an ex-parte decree. The petitioners were not party thereto which is not binding on their rights. He contended that the learned appellant Court was not justified in granting the injunction.

3. I have duly considered the aforesaid contentions.

4. There is no dispute that the petitioners/defendants have purchased the suit property from Ramesh Kumar etc., the legal heirs of deceased Durga Dass. Durga Dass has purchased the suit land in pursuance of a judgment and decree dated 30.08.1990 but the petitioners/defendants have not been able to show that the said Durga Dass ever came in possession over the suit land. The execution petition filed by Durga Dass, the predecessor in interest of the vendors of the

petitioners/defendants to seek the possession of the land in dispute was dismissed in default.

5. The plaintiffs/respondents have got an ex-parte judgment and decree dated 01.07.2014 against Durga Dass and another restraining them from dispossessing the plaintiffs from the suit land illegally, forcibly and otherwise than in due course of law. The application filed by the legal heirs of Durga Dass for setting aside the said decree is still stated to be pending. The said decree prima facie shows that the plaintiffs continued to be in possession of the suit land since long. So they are in settled possession over the land in dispute. Deceased Durga Dass predecessor in interest of Ramesh Kumar etc., the vendors of the petitioners/defendants never came in possession of the suit land in pursuance of judgment and decree dated 30.08.1990. There is no material on record to prima facie show that Durga Dass or his successor in interest have got the possession of the suit property from the present respondents/plaintiffs. There is also no material on record to show that they have been evicted from the suit property in due course of law. Even the khasra girdawari for rabi 2013 has been corrected in favour of the plaintiffs by A.C. 2<sup>nd</sup> Grade, Kapurthala, vide order dated 13.03.2013, after making the local inspection of the suit land. The learned appellate Court has rightly observed that the learned trial Court has failed to appreciate the aforesaid facts prima facie

indicating the possession of the plaintiffs over the suit land and the injunction was declined to them simply on the basis of entries in the jamabandi showing the ownership and possession of Durga Dass.

6. Thus, I do not find any error or illegality in the findings of the learned appellate Court in granting ad interim injunction in favour of the plaintiffs/respondents. Resultantly, the present revision petition is without any merit and the same is hereby dismissed.

04.04.2016  
Vinay

**[ DARSHAN SINGH ]**  
**JUDGE**