

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

CR No.8757 of 2016

Date of Decision:23.12.2016

Amar Singh

.....Petitioner

Versus

Rajpal Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. R.S. Randhawa, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Petitioner has assailed order dated 04.10.2016 passed by Additional District Judge, Patiala whereby order dated 23.09.2015 passed by the Civil Judge (Junior Division), Samana was partly set aside.

[2]. Plaintiffs-respondents filed a suit for possession and permanent injunction on the ground that land in question was given to the defendants on lease. After expiry of lease period, defendants are in unauthorized possession of the land in question. An application under Order 39 Rules 1 and 2 CPC was filed along with the suit.

[3]. Trial Court refused to grant injunction on the ground that possession of the suit land is with the defendants and all the three ingredients for granting temporary injunction are not satisfied. Plea of adverse possession raised by the defendants

in the written statement would be taken care of by the Court at the relevant stage.

[4]. Trial Court dismissed the application for temporary injunction vide order dated 23.09.2015. Plaintiffs went in appeal, the Appellate Court though found possession of the suit land with the defendants, but on the basis of admissions by defendant No.1, proceeded to record some findings which according to learned counsel for the petitioner are totally unwarranted. The jurisdiction of the Civil Court and the title in respect of suit land are yet to be decided by the trial Court on the basis of evidence to be led by the parties at the relevant stage. Lower Appellate Court has only restrained the defendants from changing the nature of the property.

[5]. In considered opinion of this Court, restraint qua change of nature of property cannot be treated to be an order prejudicial to the interest of the defendants-petitioners in view of their possession over the suit land which has been described to be "*Kashat Mukhtiar Singh Puttar Surmukh Singh Bila Lagan Bawaja Jabardasti.*"

[6]. At the time of grant of temporary injunction, only three ingredients are to be seen i.e. existence of *prima facie* case, balance of inconvenience and likelihood of irreparable injury in the event of non-grant of temporary injunction. Since the lower

Appellate Court has also protected the possession of the defendants with a rider that the defendants will not change the nature of the property, this Court is not inclined to interfere in the order passed by the lower Appellate Court.

[7]. With these observations, the present revision petition stands disposed of.

23.12.2016

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**(RAJ MOHAN SINGH)
JUDGE**

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No