

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

1. RSA No.2512 of 2010 (O&M)
Date of decision : 18.10.2016

Municipal Council Panipat

...Appellant

Versus

M/s Ram Wooltex and others

..Respondents

2. RSA No.4207 of 2010 (O&M)
Date of decision : 18.10.2016

Municipal Council Panipat

...Appellant

Versus

Rati Ram and others

..Respondents

3. RSA No.150 of 2011 (O&M)
Date of decision : 18.10.2016

Municipal Council Panipat

...Appellant

Versus

Rati Ram and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Jagdish Manchanda, Advocate for the appellant
(In RSA No.2512 of 2010)

Mr. C.S. Singh, Advocate for the appellant
(In RSA Nos.4207 of 2010 and 150 of 2011)

Mr. Ashwani Talwar, Advocate for respondent No.1.
(In RSA No.2512 of 2010)
for respondent No.7 (In RSA No.150 of 2011)

Mr. Ajay Ghangas, Advocate for the respondent Nos.1 to 11
(In RSA Nos.4207 of 2010)
for respondent Nos.1 to 6 (In RSA No.150 of 2011)

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of three aforementioned appeals.

In RSA No.2512 of 2010, appellant-defendant is aggrieved of the judgment and decree of lower Appellate Court, whereby trial Court has dismissed the suit but lower Appellate Court reversed the findings rendered by the trial Court and in rest two appeals, are aggrieved of the concurrent findings of facts.

Appellant-Municipal Council, Panipat is aggrieved of the judgment and decree rendered by both the Courts below, whereby they have been restrained from forcible dispossession and interference of the respondent-plaintiff.

Mr. C.S. Singh, learned counsel appearing on behalf of appellant in RSA No.4207 of 2010 and 150 of 2011 and Mr. Jagdish Manchanda, learned counsel appearing on behalf of appellant in RSA No.2512 of 2010 submits that respondent(s)-plaintiff(s) instituted a suit by

invoking the provision of Order 1 Rule 8 i.e in represented capacity seeking restraint order against the appellant from interference into the possession and forcible dispossession on the premise that they are in long and settled possession of premises by raising pucca houses, much less, having been granted or availed the basic amenities/facilities. Colony is known as Indra Colony. No injunction can be granted against the true owner. The land belong to Union of India and Municipal Council is looking after over the area for the purpose of maintenance. All these facts have been ignored, thus, judgment and decree of the Courts below are not sustainable in the eyes of law.

Per contra, Mr. Ashwani Talwar & Mr. Ajay Ghangas, learned counsel appearing on behalf of respondent-plaintiff submits that once possession of the respondent-plaintiff has been proved to be in long and settled, injunction granted is most innocuous. Nothing prevents the true owner to seek the possession in accordance with law and lines. In support of his contention, he has relied upon judgment rendered by Hon'ble Supreme Court in “ *Rame Gowda (D) LRs V/s Mr. Varadappa Naidu (D) by LRs and another*” 2004 (1) SCC 769.

I have heard learned counsel for the parties and appraised the paper book.

The law regarding injunction is in favour of person who is in long and settled possession is no longer res integra in view of judgment cited supra.

Decree of the lower Appellate Court is also on the similar lines whereby appellants-defendants have been restrained from taking the

possession and forcible interference except in due course of law. It is strange that no action till date has been taken in accordance with law as the impugned judgment and decree is of the year 2009 and Regular Second Appeal is pending since 2010.

I am of the view that findings rendered by both the Courts below are perfectly legal and justified.

No ground for interference is made out.

Accordingly, appeals are dismissed.

18.10.2016

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(AMIT RAWAL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No