

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

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FAO No.607 of 2016 (O&M)

Date of Decision: February 05, 2016

Kailash Kaur and others

...Appellants

Versus

Nirmal Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ramesh Sharma, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.1905-CII of 2016

Prayer in this application is for exemption from filing the certified and typed copies of judgment and decree dated 30.09.2015 and of Annexure A-1 dated 16.05.2002 and typed copy of impugned order dated 06.01.2016.

Application is allowed.

Exemption from filing the certified and typed copies of judgment and decree dated 30.09.2015 and of Annexure A-1 dated 16.05.2002 and typed copy of impugned order dated 6.1.2016, is granted subject to just exceptions.

FAO No.607 of 2016

Challenge in this appeal is to order dated 06.01.2016 passed by the Additional District Judge, Hoshiarpur, whereby the applications under Order 41 Rule 5 and Order 39 Rule 1 & 2 read with Section 151 CPC, filed by the appellants, have been decided, whereby the interim order dated 12.10.2015 passed by the Lower Appellate Court, has been vacated.

2. It is the contention of learned counsel for the appellants that a

suit was earlier filed by Gurmit Singh husband of respondent No.1-plaintiff for grant of permanent injunction which has been dismissed. Even the appeal which has been preferred by him as also the Regular Second Appeal has been dismissed. He contends that in the light of the findings recorded by the Courts in that case, the possession of Gurmit Singh husband of respondent No.1-plaintiff having been found to be not established, the injunction as was initially granted by the interim order dated 12.10.2015, was correct. He, thus, contends that the vacation of the same by the impugned order dated 06.01.2016, cannot sustain.

3. I have considered the submissions made by learned counsel for the appellants and on perusal of the impugned order, find no illegality in the same.

4. The learned Lower Appellate Court has referred to the evidence which has been led by respondent No.1-plaintiff-Nirmal Kaur according to which she has been able to prove the lease deed Exhibit P-2 in her favour as executed by the Punjab Wakf Board. The witness examined by the appellants namely Ranjit Singh has admitted in his cross-examination that Nirmal Kaur raised construction in Khasra No.30 on 900 square yards and he has further admitted that Nirmal Kaur got allotment in her name from Khasra No.30 and might have been depositing the rent with the Punjab Wakf Board. The possession over the suit property having been admitted by the witness of the appellants, indicates that she is in possession of the property. On the basis of the said evidence, Court has rightly concluded that the interim order dated 12.10.2015 passed by the Court needs vacation. There is no illegality in the order which would call for any interference by this Court in the present appeal.

5. The appeal stands dismissed.
6. In the light of the dismissal of the appeal, the application for stay i.e. CM No.1906-CII of 2016, stands disposed of as infructuous.
7. Any observations made in this order shall not have any bearing or influence upon the merits of the appeal pending before the Lower Appellate Court.

February 05, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE