

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.930 of 2016 (O&M)
Date of decision:01.09.2016

Santokh Singh

...Appellant

Vs.

Manjit Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Kanwal Goyal, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

Appellant-defendant is aggrieved of the concurrent findings of facts and law, whereby, suit for permanent injunction restraining him from interfering into peaceful living and occupation of the respondent-plaintiff in the house situated within the *lal lakir* of village Rohi Wala Khooh, Near Bhatta Sekhri, Kartarpur, District Jalandhar as per the site plan, has been decreed.

Mr. Kanwal Goyal, learned counsel appearing on behalf of the appellant-defendant with lot of vehemence and eloquence argued that respondent-plaintiff had failed to prove the exclusive possession and as per her own admission, the property was in joint ownership. The parameters for entertaining the suit for injunction as per the judgment rendered by Full Bench of this Court in **Bhartu vs. Ram Sarup 1981 PLJ 204** and reiterated by the Hon'ble Division Bench in **Bachan Singh vs. Swaran Singh 2000 (3) RCR (Civil) 70** that no injunction can be sought against co-

sharer. The fact remains that Santokh Singh was not in joint ownership but his son-in-law. There is a categoric admission of the plaintiff with regard to having been evicted from the portion and thereafter, she moved out and staying in the cattle shed. The Courts below have erroneously misread and misconstrued the oral and documentary evicted in decreeing the suit and thus, urges this Court for setting aside the findings under challenge.

I have heard learned counsel for the appellant-defendant and appraised the judgments and decrees of the Courts below.

The categoric case of the respondent-plaintiff in the plaint had been that she was married to Kulwinder Singh in the year 1979. Two children have been born from the wedlock. Unfortunately, her husband died on 17.02.2007. The son of the plaintiff, namely, Gurpeet Singh migrated to Italy and the plaintiff has been residing in the suit property along with her daughter Rajpreet Kaur. The brother in law of the plaintiff, namely, Dilbagh Singh is also residing in the same house along with his family members. The plaintiff and her daughter reside in a separate portion of the house. The defendant is the father-in-law of the brother of the deceased husband of the plaintiff namely Paramjit Singh. The said Paramjit Singh is also having separate house adjoining to the suit property in which the plaintiff is residing. The specific objection was taken in the written statement, wherein, it has been stated that the property was joint with one Paramjit Singh and the alleged place was in the area of khasra number which is still joint between the parties. The plaintiff attempted to alienate the property and dispose of specific khasra number out of the joint property. The interim

injunction granted was confirmed by the Court in favour of Paramjit Singh. In spite of stay order, she continued with the construction at the spot in khasra number and the contempt proceedings were also initiated against her. All these facts, in my view, weighed by the Courts below that the plaintiff is in possession of suit property as per the site plan. The injunction granted is most innocuous and nothing prevented the party to seek partition, in case of jointness of the property but not in the manner and mode to forcibly dispossess the plaintiff.

While affirming the findings under challenge, I do not intend to differ with the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

September 01, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No