

Civil Revision No.5677 of 2016

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

Sr. No.103

Civil Revision No.5677 of 2016

DECIDED ON: March 06, 2017

SHIV GOVIND SINGH

..PETITIONER

VERSUS

GURMEET KAUR

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Sandeep Gupta, Advocate,
for the petitioner.

JASPAL SINGH, J.

Challenge in this revision petition preferred under Article 227 read with Section 151 CPC is to the order dated July 04, 2016 (Annexure P-3), passed by learned Additional District Judge, Ludhiana whereby an order dated November 27, 2012 passed by learned Civil Judge (Jr. Divn.) Ludhiana has been set aside while accepting the appeal and an application under Order XXXIX Rule 1 & 2 read with Section 151 CPC has been dismissed.

2. While assailing the impugned order dated July 04, 2016, it has been contended by learned counsel for the petitioner that the same is absolutely unwarranted in the eyes of law or is liable to be set aside. In fact, it is the case of the appellant that entire sale consideration was paid by him at the time of purchase of the plot in question. Since he was not conversant with the Punjabi script, he was not aware that the respondent-defendant No.1 has got typed the sale deed in her favour also to the extent of one half share. He only came to know about this fact when he obtained the certified copy of sale deed. In fact, appellant is already in possession of the disputed property. Since, respondent/defendant No.1 has threatened to alienate the suit property as well as to interfere in his peaceful possession of the disputed property, a necessity arose to him to knock the doors of the civil court. He was constrained to file a suit for permanent injunction seeking restraining the respondent-defendant No.1 from interfering his peaceful possession as well as to alienate the suit property on the basis of alleged sale deed dated August 13, 2001. An application moved under Order XXXIX Rule 1 & 2 read with Section 151 CPC was though allowed by the learned trial court. But that order has been set aside and consequently an application has been dismissed while accepting the appeal vide impugned order dated July 04, 2016 without assigning any cogent reason. Since the plaintiff-appellant is already in possession of the property in suit, he is entitled to the injunction prayed for by way of acceptance of instant petition.
3. This court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner but find the same to be of no legal weight.

4. No doubt, the appellant has claimed himself to be in possession of suit property but it is evident from the copy of registered sale deed dated August 13, 2001 as well as entries appearing in the Jamabandi that the appellant/plaintiff is owner to the extent of one half share whereas the remaining one half share is in the ownership of Gurmeet Kaur.

5. Here it would be pertinent to mention that Gurmeet Kaur is none else but wife of the appellant-Shiv Govind Singh and their relations are strained. Gurmeet Kaur has already moved a petition under Section 23 of the Protection of Women from Domestic Violence Act and during the course of proceedings of the said petition, appellant-Shiv Govind Singh has already been directed to provide residence to his wife-Gurmeet Kaur in the shared household. In such a situation, grant of injunction in favour of the appellant regarding his possession would tantamount to deprive of the respondent-wife of her right to get the shared household/accommodation in pursuance of the orders passed in her favour by the competent court. In case "*Rajinder versus Vajinder 1994(1) PLR 602*, it has been categorically observed by this court that the court shall be reluctant to grant injunction where a person is going to be deprived of his right to get possession in pursuance of orders passed in his/her favour by the competent authorities. Thus, learned lower appellate court has rightly dismissed an application under Order XXXIX Rule 1 & 2 read with Section 151 CPC while setting aside the order dated November 27, 2012 passed by the Civil Judge (Jr. Divn.) Ludhiana. Since the respondent is owner to the extent of one half share in the disputed property, she also cannot be restrained from alienate the same. The learned lower appellate court has exercised the discretion in

Civil Revision No.5677 of 2016

a judicious manner while disposing of the appeal and dismissing application under Order XXXIX Rule 1 & 2 read with Section 151 CPC. Since the impugned order dated July 04, 2016 does not suffers from any arbitrariness, perversity or illegality, no interference is justified by this court.

6. In the light of what has been discussed above, instant revision petition is dismissed, whereby impugned order dated July 04, 2016 is upheld.

7. No order as to costs.

March 06, 2017

Ankur

**(JASPAL SINGH)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes/No
Yes/No**