

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

CR No.6112 of 2016(O&M)

Date of decision: 16th .11.2017

Om Parkash Chhabra

.....Petitioner

VERSUS

Anant Chhabra

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Prateek Pandit, Advocate for the petitioner.

Mr. Anup Gautam, Advocate for the respondent.

REKHA MITTAL, J.

Challenge in the present petition has been directed against orders dated 10.02.2015 (Annexure P-1) and dated 20.02.2016 (Annexure P-2) passed by the Courts below whereby application filed by the respondent/plaintiff under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (in short 'CPC') for interim injunction has been allowed by the trial Court and the appeal preferred by the petitioner against the order of the trial Court did not find favour with the Additional District Judge, Jalandhar and the order passed by the trial Court has been affirmed.

Counsel for the petitioner has submitted that respondent Anant Chhabra is the son of Sh. Chand Chhabra, real brother of the petitioner. In the year 1967, Om Parkash Chhabra has taken the premises adjoining Payal Cinema, Nakodar Road, Jalandhar on rent. Sh. Chand Parkash Chhabra, younger brother of the petitioner and father of the respondent/plaintiff was allowed to join the business with the petitioner in the firm Chhabra Sweets and Cafeteria in 1981-82. It is further submitted

that earlier litigation between the petitioner and Suraj Parkash and others including Chand Parkash was decided in favour of the petitioner vide judgment dated 04.03.2004 (Annexure P-6). It has been argued that though title of property bearing No.WG-421, Mohalla Surajganj, Nakodar Road, Jalandhar is in the name of Anant Chhabra and his mother Monica Chhabra but the property was purchased with the funds after selling firm Chhabra Sweets and Cafeteria by way of fraud and cheating. Another submission made by counsel is that on 15.05.2014, the petitioner executed a rent deed in favour of Monica Chhabra and Anant Chhabra on the basis whereof security of Rs.15 lakhs and advance up to 31.12.2014 was paid by the petitioner to keep peace and harmony between the brothers and as per the sweet will of Chand Parkash Chhabra and his family members. It is argued with vehemence that as the said rent deed is the subject matter of dispute between the parties to be decided on the basis of evidence, interest of justice demands that order of status quo regarding possession over the suit property as existed on 19.09.2016, in terms of order of notice of motion passed by this Court may be allowed to maintain till disposal of the suit, pending for evidence of the petitioner/defendant.

Counsel representing the respondent/plaintiff has supported the impugned orders with the submission that in the face of civil and criminal litigation between the parties prior to the alleged rent deed propounded by the petitioner, the Courts below have rightly refused to rely upon the rent deed set up by the petitioner. It is argued with vehemence that the petitioner has failed to produce any document on record like VAT number, documents with regard to sale and purchase, Income Tax Return etc. to substantiate his plea that he is running business of M/s Chhabra Sweets and Cafeteria in the property in question. It is further argued that

consistent findings recorded by the Courts below do not warrant intervention in exercise of limited revisional jurisdiction of this Court as the petitioner has failed to make out a case that the orders impugned suffer from any illegality much less perversity.

I have heard counsel for the parties, perused the paper-book particularly the orders impugned.

Counsel for the petitioner has fairly informed that prior to the alleged rent deed dated 15.05.2014 relied upon by the petitioner, there was litigation between the parties with regard to rendition of accounts and Regular Second Appeal is pending in this Court. There was also criminal litigation between the parties initiated in the year 2013. As per plea of the petitioner, he paid an amount of Rs.15 lakhs towards security and advance payment up to 31.12.2014.

Counsel for the petitioner, in response to a query has fairly informed that there is no document as an evidence of payment of Rs.15 lakhs as security and advance up to 31.12.2014. It is difficult to prima facie accept that the petitioner parted with huge amount of Rs.15 lakhs in favour of the respondent and his mother without getting a receipt or payment through banking process despite the parties already being involved in litigation.

Counsel for the petitioner is not in a position to point out any materials on record to substantiate plea of the petitioner that he is carrying on the business of Chhabra Sweets and Cafeteria in the premises in question. In this view of the matter, I find merit in contention of the respondent/plaintiff that there is no error much less illegality or perversity in the orders passed by the Court below as would call for intervention in exercise of supervisory jurisdiction of this Court. That being so,

contention of the petitioner for allowing the order dated 19.09.2016 qua status quo to continue till disposal of the suit is not meritorious and liable to be rejected.

For the foregoing reasons, the petition fails and is accordingly dismissed leaving the parties to bear their own costs. However, nothing stated hereinbefore shall be construed as an expression of opinion on merits of the case or cause prejudice to either of the parties at the time of final adjudication.

NOVEMBER 16th, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no