

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

CR No.5933 of 2014

Date of Decision: 14.09.2017

Surinder Singh Mittal

.....Petitioner

Versus

Sito Devi

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Pardeep Kumar, Advocate for
Mr. A.S. Cheema, Advocate
for the petitioner.

Mr. Damanjeet Bhoriwal, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

[1]. Petitioner has assailed the judgment and decree dated 07.02.2014 passed by the Civil Judge (Junior Division), Bathinda, vide which suit under Section 6 of the Specific Relief Act for recovery of possession of plot in dispute filed by the plaintiff/petitioner was dismissed.

[2]. In a suit under Section 6 of the Specific relief Act, the Court has to see:-

(a) that the person was in possession of the suit property,

(b) he has been dispossessed by the defendant,

(c) that the dispossession is not in accordance with law and

(d) that the dispossession took place within six months of the filing of the suit.

[3]. While considering the aforesaid facts, the Court has to see that Section 6 of the Specific Relief Act gives a special privilege to the person in possession of the property and who has been dispossessed in the manner as suggested above. The proceedings are somewhat summary in nature which are purely based upon the possession of the property. The question of title is wholly irrelevant.

[4]. In **Mohd. Mehtab Khan and others Vs. Khushnuma Ibrahim and others, 2013(2) RCR (Civil) 295**, the Hon'ble Supreme Court held that while adjudicating the *lis* under Section 6 of the Specific Relief Act, the Court is not required to go into the question of title. The only requirement is to decide as to whether the plaintiff was in possession at any time within six months prior to the date of filing of the suit. Proceeding under Section 6 of the Specific Relief Act is intended to be a summary proceeding, the object of which is to afford an immediate remedy to the aggrieved party to reclaim possession. The question of title is totally irrelevant in the proceedings under Section 6 of the Specific Relief Act. The question is purely in respect of possession.

- [5]. Evidently, the plaintiff was a co-sharer of the property. In case of co-sharership, all the co-sharers would be deemed to be in possession of every inch of land till the joint land is partitioned by metes and bounds. The principles carved out in a Division Bench judgment of this Court in **Sant Ram Nagina Ram Vs. Daya Ram Nagina Ram, AIR 1961 Punjab 528** were further endorsed by Full Bench judgment of this Court in **Bhartu Vs. Ram Sarup, 1981 PLJ 204** and further reiterated in **Ram Chander Vs. Bhim Singh and others, 2008(3) RCR (Civil) 685.** In the case of aforesaid legal proposition, a co-sharer without being any exclusive possession cannot oust the other co-sharer from enjoyment of the property as all the co-sharers would be deemed to be in possession over every inch of land.
- [6]. In view of above, defendant is held to be in joint possession of the property. Plaintiff while appearing as PW 1 has categorically admitted in his cross examination that he was living in Mansa till 2004. He visited the plot in question in 2004, but he could not tell as to how many times he visited the disputed plot. He could not tell the date, month and year of his visit to the plot in question. The date of dispossession was conspicuously missing from the pleadings as well as in the deposition of the plaintiff as PW 1.
- [7]. Trial Court on the basis of aforesaid facts rightly

dismissed the suit of the plaintiff under Section 6 of the Specific Relief Act. No exception can be made out for not concurring with the findings recorded by the trial Court. This revision petition is accordingly dismissed.

14.09.2017

prince

Whether Reasoned/Speaking

Whether Reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No