

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.1470 of 2018
Date of Decision : 24.05.2018

Lt. Col. Anil Kabotra (Retd.)

.....Petitioner

Versus

Neeta Kabotra

..... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

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

ARUN PALLI, J. (Oral)

The petitioner/plaintiff is in revision against the order dated 18.05.2009 (Annexure P-1), passed by the Civil Judge (Junior Division), Pathankot, vide which, his suit for restoration of possession under Section 6 of the Specific Relief Act, 1963, (for short 'the Act'), has since been dismissed and also the order dated 28.03.2017 (Annexure P-2), vide which, even the appeal preferred against the said order was declined.

Concededly, the suit filed by the petitioner/plaintiff was dismissed by the trial Court, for, in terms of Sub Section (2) of Section 6 of the Act, the suit was required to be instituted within 6 months from the date of dis-possession, whereas the suit was filed by the petitioner way beyond the expiry of 6 months. Therefore, the suit was held to be not maintainable. Even otherwise, it was observed that as the suit property was jointly owned by the parties and the defendant being in exclusive

possession, the plaintiff could not pray for a decree for possession against her as the only remedy available was to seek partition. Further, the petitioner had assailed the order passed by the trial Court by way of appeal, which, too was dismissed vide order dated 28.03.2017, for, in terms of provisions of sub Section (3) of Section 6 of the Act, no such appeal was maintainable against the order, passed by the trial Court under Section 6. On being pointedly asked, learned counsel for the petitioner could not point out as to how the conclusions arrived at by both the Courts were either contrary to the record or suffered from any material illegality.

No ground is made out to interfere in exercise of revisional jurisdiction. The petition being devoid of merit, is accordingly, dismissed.

24.05.2018

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No