

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

CR No.3874 of 2017
Date of decision: 25.01.2018

Mohinder Kaur

..... Petitioner

Versus

Daljinder Kaur

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Atul Jain, Advocate
for the petitioner.

Mr. G.S. Nagra, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Defendant-petitioner is in the revision petition against the order passed by the trial Court dated 15.10.2016 confirmed in appeal by the learned First Appellate Court granting injunction in favour of the plaintiff.

Although, it is true that normally the Court does not in exercise of its power under Article 227 interfere with the interim orders passed by the Court, however, whenever it is found that the entire approach of the Court was perverse, this Court is left with no choice but to interfere.

It is not in dispute that Surjit Singh, brother-in-law of the present plaintiff filed a suit for similar relief on 29.08.2012. The suit was filed against the husband of defendant-petitioner Tarsem Lal. Tarsem Lal filed a counter claim and after trial, the Court dismissed the suit filed by Surjit Singh and decreed the counter claim filed by Tarsem Lal vide judgment dated 09.03.2015. The concluding para of the judgment is

extracted as under:-

“In view of my issue-wise discussion and decision thereon, the suit of the plaintiff fails and is ordered to be dismissed with costs whereas the counter claim of the defendants for declaration is allowed with costs to the effect that defendant No.1 is owner in possession of the suit land as detailed in the head note of the counter claim and consequently the plaintiff is restrained from interfering in the possession of the defendants over the same except by following due course of law. Decree-sheet accordingly be prepared and file be consigned to the record room.”

Surjit Singh filed an appeal which was later on withdrawn. Thereafter, he has prompted her sister-in-law (brother's wife) to file this suit. Learned trial Court even after noticing that the earlier suit filed by Surjit Singh has been dismissed and husband of the defendant has been declared owner in possession, still granted status-quo only on the ground that the defendant-petitioner has admitted in her written statement that Surjit Singh has taken over the possession of the property illegally. In the considered opinion of this Court, once a judgment has become final between the parties and her husband has been declared owner in possession and the present plaintiff is closely related with the Surjit Singh who was plaintiff in the previous suit, the Courts committed a serious irregularity in granting injunction. It is apparent on the record that the second suit filed is at the behest of Surjit Singh only who has lost the litigation and is fighting proxy litigation through her sister-in-law. The petitioner-defendant is a widow who has lost her husband. She appears to be a simple woman who could not even protect her possession although there was a decree in her favour. However, the Courts while granting injunction should be alive to the situation. The Court should not pass orders mechanically without applying their mind.

In view thereof, the orders under challenge are set aside. The application for injunction filed by the plaintiff-respondent is dismissed.

Revision petition is allowed.

25.01.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No