

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

**Civil Revision No.7748 of 2018
Date of Decision: 07.12.2018**

Bikram Singh

...Petitioner

Vs.

Harcharan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Varun Sharma, Advocate, for the petitioner.

Amol Rattan Singh, J (Oral)

1. By this petition, the petitioner has challenged the order of the learned trial court (Civil Judge, Jr. Divn., Jalandhar), dated 11.07.2018, refusing to recall an order earlier passed by that Court on 18.08.2015, disposing of the suit filed by the petitioner under Section 6 of the Specific Relief Act, 1963.

2. In the application, the petitioner had alleged that once that suit was disposed of on the basis of a compromise reached between him and the respondents, the first of whom is his brother, (with the other respondents being his nephews), thereafter the respondents resiled from the terms of the compromise, stating that neither would they sell the suit land nor would they run a joint business with the petitioner. It has been further stated in paragraph 4 of the application (Annexure P-4) that the premises, i.e. a shop, remained locked with two locks, one lock having been put by the petitioner

and other by the respondents, but with the respondents having broken open the lock of the petitioner and taken possession of the entire shop.

3. Upon notice having been issued and a reply thereto having been filed, eventually vide the impugned order, the trial court held that, firstly, there was no averment made in the application that the applicant (present petitioner) had ever requested the respondents to start any business together and further, that it was an admitted fact that the shop was earlier rented out to one Satnam Singh, who had handed over the keys to the petitioner herein after his eviction, with the keys of the shop being with both the parties.

As regards non-sale of the suit property, it was stated that it was way always open to a co-sharer to sell his own part of the property even if the other party was not willing to sell his share.

Lastly, it was held that the compromise reached between the parties was not the result of any threat or coercion and consequently, there was no ground made out to recall the order dated 18.08.2015, the application of the petitioner thereby having been dismissed.

4. Learned counsel for the petitioner reiterates the contents of the application to submit that the respondents having resiled from their part of the compromise, the petitioner has no option but to seek revival of the suit.

He further submits that the petitioner no longer having possession of the suit property, with his lock having been broken open (as contended), even his share in the property naturally cannot be sold without

possession being handed over to the vendee.

He further submits that in the reply filed by the respondents to the application of the petitioner, it has been contended that the petitioner had no legal right to the suit property and therefore in any case the petitioner would have been prevented from trying to sell it and further, their intention to usurp the entire property becomes obvious from the aforesaid statement.

5. Having considered the arguments, I find myself unable to agree with the learned counsel for the petitioner as regards revival of the suit earlier filed under Section 6 of the Specific Relief Act, in view of the fact that undoubtedly at that stage the matter had been compromised and the suit disposed of accordingly.

Whether or not the petitioner has any right to the suit property is not being commented upon by this Court, the suit out of which the present petition arises (in fact from the application in the earlier suit), being a suit filed not seeking a declaration of any kind but a specific relief in terms of Section 6 of the Act of 1963, on the ground that the petitioner had been illegally ousted from the property without due process of law.

Therefore, in the opinion of this Court, the earlier suit having been disposed of in view of the compromise reached stated to have been reached between the parties, and the possession at that stage having been handed over to the petitioner (as contended even by him), if thereafter the petitioner has been dispossessed from the suit property, it would possibly

give rise to a fresh cause of action under Section 6 of the Specific Relief Act, if the petitioner could prove that he had actually been dispossessed within the specified period as stipulated in the Act and other conditions as are necessary to be proved, are so proved by him.

Consequently, I find no ground to interfere in the impugned order, though of course if the petitioner is aggrieved of dispossession again, a separate remedy under Section 6 of the Act 1963 may be available to him, with of course it to be proved by him that all the conditions necessary for maintainability of such a suit, are met with.

Dismissed with the aforesaid observations.

07.12.2018
vcgarg

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes
Whether reportable : Yes