

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

CR No.8193 of 2018(O&M)
Date of Decision: 03.12.2018

Vikram Kataria and another ... Petitioners

Vs

Jaipal Raghav ... Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Surinder Dagar, Advocate
for the petitioners.

Mr. Abhimanyu Tiwari, Advocate and
Mr. Amitabh Tiwari, Advocate
for the caveator/respondent.

RAJ MOHAN SINGH, J. (ORAL)

[1]. An application under Order 39 Rules 1 and 2 CPC has been allowed by the Courts below in a suit for permanent injunction filed by the plaintiff/respondent against the defendants/petitioners.

[2]. Paramjit Singh was the owner of the property. Shop Nos.107/108 are in dispute qua which release deed dated 19.10.2004 was statedly executed by Ranjit Singh in favour of the petitioners. Mutation was also sanctioned. On the other hand, the plaintiff is stated to have purchased three shops from Ranjit Singh for a consideration of Rs.21,25,000/-. Receipt was

also executed on 12.09.2016. An amount of Rs.16,25,000/- was paid in cash, whereas the amount of Rs.5,00,000/- was paid through cheque. Since the execution of sale deed in Gurugram was banned during the relevant period, therefore, Ranjit Singh executed Will dated 14.09.2016 in favour of the plaintiff/respondent.

[3]. Learned counsel for the petitioners submitted that in fact shop No.107 is in possession of the plaintiff as he was inducted as tenant by his father. However, shop No.108 was never leased out to the plaintiff and the defendants remained in possession of the shop No.108 through out. The Will is claimed to be without title as in the presence of release deed dated 19.10.2004, Ranjit Singh was not within his right to execute any Will in the year 2016.

[4]. By referring to para No.9 of the order dated 05.10.2018 passed by the Additional District Judge, Gurugram, learned counsel for the plaintiff/respondent submitted that the property tax receipts of shop Nos.107 and 108 are in the name of the plaintiff. Bank account of the plaintiff also shows transfer of funds in favour of Ranjit Singh. Possession of the plaintiff has been established. CCTV footage/clipping also shows the attempt made by the defendants in ransacking and throwing the goods of the plaintiff in the shop.

[5]. Both the Courts below have concurrently found that the plaintiff has a prima facie case, balance of convenience is also in favour of the plaintiff and in the event of not granting any interim relief, he shall suffer an irreparable loss and injury.

[6]. At this stage, without meaning anything on merits of the case, I find that all the three golden principles of Order 39 Rules 1 and 2 CPC are in favour of the plaintiff/respondent. Both the Courts below have rightly decided the application under Order 39 Rules 1 and 2 CPC thereby restraining the defendants from interfering in the possession of the plaintiff over the suit property. There is no error of jurisdiction in the impugned orders passed by the Courts below. This revision petition is accordingly dismissed.

03.12.2018
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No