

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

**RSA No.525 of 2016 (O&M)
Date of Decision.03.12.2018**

Rachhpal Kaur

...Appellant

Vs

Bharti and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sarju Puri, Advocate
for the appellant.

-.-

AMIT RAWAL J. (ORAL)

The appellant-defendant is in regular second appeal against the concurrent finding of fact whereby injunction sought by the respondents-plaintiffs claiming to be legal heirs of the tenants from forcible interference and dispossession over the shop in question, has been decreed by the trial Court and upheld by the lower Appellate Court. Injunction was sought on the ground that their father Sham Lal had taken a shop on rent from Kishan Gir chela Shiv Gir through Baba Gurbachan Gir @₹150/- per month, for the purpose of selling vegetables and fruits under the name and style of Devi Dyal Narang and sons. The tenancy on demise of Sham Lal was inherited by plaintiffs. Amarjit Singh (since deceased) husband of appellant-defendant was harassing all the tenants of 36 shops situated in Sabzi Mandi Banga, despite the fact that rent was being paid to Baba Shiv Gir Mandir. In such circumstances, injunction was sought. It was also alleged that dispute with regard to ownership was pending adjudication before this Court.

Defendant opposed the suit by raising preliminary objections with regard to maintainability, non-joinder and misjoinder

of parties. On merits, pendency of litigation in this Court was admitted.

Mr. Sarju Puri, learned counsel appearing on behalf of the appellant-defendant submitted that plaintiffs are sub-tenants and therefore, cannot seek injunction against the true owner/landlord. Dispute with regard to ownership of the land, owing to the pendency of the litigation in this Court was adjourned *sine die*, however, the same has been decided and there is passing reference that the tenancy was unauthorized. In such circumstances, injunction granted by the trial Court is liable to be vacated, as the plaintiffs were not found to be in possession.

I am afraid aforementioned argument is not sustainable, for, Amarjit had already filed suit for ejectment, which established possession of tenants. Without commenting upon the status of tenant or otherwise, long and settled possession cannot be disturbed except in due course of law. The remedy, if any, is to seek ejectment in accordance with law but not to take forcible possession or cause interference into possession. This is what is the import of the judgments and decrees of Courts below, which cannot be faulted with.

No ground for interference is made out, much less, no substantial question of law arises for determination by this Court. The regular second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 03, 2018
Pankaj*

Whether Reasoned/Speaking	Yes
Whether Reportable	No