

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

CR-3796-2019 (O&M)
Date of decision: 09.09.2019

Gagandeep Kaur Saini

...Petitioner

Versus

Bachitter Saini and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

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

Mr. M.S. Atwal, Advocate for the respondents.

H.S. MADAAN, J.

This revision petition is directed against order dated 20.12.2018, passed by Civil Judge (Sr. Divn.) NRI Court, Jalandhar, ordering restoration of possession of the suit property to the plaintiffs/respondent Nos.1 & 2 on the basis of an application filed by them under Section 151 CPC. The defendants/respondents pray that this order be set aside, by way of acceptance of the revision petition and application filed by the plaintiffs seeking restoration of possession be dismissed.

Briefly stated facts of the case as per version of the plaintiff are that plaintiffs Bachitter Saini and his wife Parminder Kaur had filed a suit for grant of permanent injunction restraining the defendants Amritpal Saini, Gurpreet Kaur Saini and Gagan Deep Kaur Saini from taking forcible and illegal possession of the suit property. Along with the suit,

they had moved an application for grant of ad-interim injunction and on which ad-interim injunction was granted to them. Defendant Nos.5 to 7 had put in appearance but since they had failed to file written statement, their defence was struck off. Both the plaintiffs had returned to Italy in the last of January and at the time of leaving India, they had appointed Dalbir Singh as a care taker of the suit property and handed over the keys to him. A dispute arose between defendant No.4 and her husband who was son of the plaintiffs. Defendant No.4 had filed a complaint to the police in Italy which was found to be false. Then, she came to India with her minor daughter Avleen Kaur Saini. However, the defendants had a scuffle with Dalbir Singh and by use of duplicate keys, they entered the suit property. According to the plaintiffs, the same is their self acquired property with which, the defendants have no concern. The defendants have come in wrongful possession of the suit property and the possession be restored to the plaintiffs.

The application was resisted by respondent Nos.4 to 7, contending that defendant Nos.1 to 3 are real sons of plaintiffs and defendant No.1 Amritpal Saini was married with Gurpreet Kaur Saini, daughter of defendant No.2 in the year 2010. She is daughter of defendant Nos. 5 & 6 and real sister of defendant No.7. Defendant No.4 Gagandeep Kaur Saini had keys of the property in dispute since her marriage with defendant No.3 and when defendant No.4 went to Italy, the original keys were also with defendant No.4. Then, defendant No.4 had given birth to a daughter, namely, Avleen Saini in Italy. She was tortured

by her parents in-law Bachitter Singh and Parminder Kaur-plaintiffs along with her husband and as such, under compelling circumstances, she returned to India along with minor daughter on 22.06.2018. She used to stay in the house in dispute with her minor daughter. On 09.09.2010, when defendant No.4 along with minor daughter went to the house at 9.00 am for cleaning the house, then, Dalbir Singh and Paramjit Kaur and one unknown person came and started pushing the defendant No.4 and her minor daughter in order to turn them out of the house. They also tore her clothes. As such, she moved an application to the police but no action was taken. Defendant Nos.1 to 4 have been disinherited by the plaintiffs by way of publication in the newspaper. Therefore, no ground for restoration of the possession was made out.

After hearing learned counsel for the parties and going through the record, the trial Court of Civil Judge (Sr. Divn.) NRI Court, Jalandhar, observed that the plaintiffs/applicants are owners of the property and defendant No.4, who is alleged to have dispossessed them from the property is their daughter in-law. She had not placed on record any document to show that she has been authorized to stay in the said house as daughter in-law or as a licensee. Therefore, she had no right to reside in the property against the wishes of plaintiffs and without their consent, especially when she had been restrained by the Court order from interfering into the possession of the plaintiffs. Then making reference to the judgments passed by the Apex Court in **Sushil Kumar Dey Biswas & Anr. Vs. Anil Kumar Dey Biswas, 2015 (1) Law Herald 232** and **M.N.**

Ramu @ Ramshetty Vs. Saraswathama, 1991 CCC 743 by Karnataka High Court, observing that if the plaintiff is dispossessed from the house in violation of temporary injunction then the Court can order restoration of possession under Section 151 and further provisions under Order 39 Rule 2-A is not a bar for the exercise of this power. As such, application has been accepted, observing that since the plaintiffs have been dispossessed from the property after passing of the injunction order and they have a lawful right to remain in the property.

I do not find any illegality or infirmity in the order, much less apparent on the face of it. The order is certainly not perverse or in violation of settled legal parameters. There is no ground to interfere with the same by exercising revisional jurisdiction. As such, finding no merit in the revision petition, the same stands dismissed.

09.09.2019

sumit.k

**(H.S. MADAAN)
JUDGE**

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