

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

**RSA No.6019 of 2018(O&M)
Date of Decision: 07.03.2019**

Santokh Singh deceased through legal heirs.....Appellant(s)

Versus

Sushil Kumar and another

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Krishan Sehajpal, Advocate
for the appellant(s).

RAJ MOHAN SINGH, J.(Oral)

[1]. Defendant No.2/appellant is in regular second appeal in a suit for permanent injunction.

[2]. Plaintiff filed a suit for permanent injunction on the ground that he took a shop in question on rent from defendant No.1 in the month of March 2005 at the rate of Rs.150/- per month. The premises was meant to use as godown. The rent was being regularly paid to defendant No.1. One month prior to institution of the suit, defendant No.1 refused to accept the rent

and had given threat of dispossession which ultimately led to filing of the suit.

[3]. In the written statement filed by defendant No.1 tenancy was admitted, but he claimed that the plaintiff was in arrears of rent. Defendant No.2/appellant contest the suit on the premise that the plaintiff has no right to file the suit in question as the suit land was owned and possessed by one Satnam Singh son of Hazara Singh to whom defendant No.2 had sold the suit property. Power of attorney was executed on 18.04.2006 by defendant No.1 in favour of defendant No.2 and thereafter, defendant No.2 executed sale deed dated 28.07.2008 in favour of said Satnam Singh. Satnam Singh was statedly in possession of the suit property as owner.

[4]. Both the Courts below have decreed the suit after appreciating the material on record.

[5]. Perusal of the record would show that the plaintiff has filed a suit for permanent injunction, restraining the defendants from interfering in his peaceful possession. Plaintiff appeared as PW 1 and proved his possession with reference to rent note Ex.P1, receipts Exs.P2 to P5, electricity bills Ex.P6, Ex.P8, Ex.P10 and electricity bill receipt Ex.P7. Defendant No.1 in his written statement has specifically admitted relationship of landlord and tenant. Defendant No.1 executed power of attorney

in favour of defendant No.2 who in turn sold the property in question to Satnam Singh. Defendant No.2 never asserted his ownership, nor possession over the suit property before the Courts below, rather his case was on the basis of title in favour of Satnam Singh to whom he had already sold the property. Satnam Singh appears to be not aggrieved by any such restraint order, nor he was impleaded as party.

[6]. Permanent injunction is remedy in personam. A person cannot be forced to contest against someone with whom he does not wish to contest. On the basis of evidence on record, both the Courts below have appreciated the pleadings and evidence and have arrived at concurrent findings of fact that the plaintiff/respondent is in possession of the suit property and the defendants have been restrained from taking forcible possession of the same except in due course of law.

[7]. The findings of fact recorded by the Courts below cannot be held to be on account of misreading of evidence or suffered with any perversity. No question of law worth consideration is involved in the present appeal. The present appeal is found to be totally devoid of merits and is accordingly dismissed in *limine*.

[8]. Since the main appeal has been dismissed on merits, therefore, there is no necessity to pass any order in the

application for condonation of delay in re-filing the appeal. Other applications are accordingly disposed of.

07.03.2019
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No