

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

Sr. No. 103

CR-2507-2020 (O&M)
Date of decision : 05.04.2021

Harbhajan Singh @ Bhajan Singh

..... Petitioner

VERSUS

Gurjant Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Paras Jagga, Advocate, for
Mr. Dhanvir Batish, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner has challenged order dated 3.1.2020 passed by the learned Additional District Judge, Patiala, whereby, order dated 13.4.2018 passed by the learned Civil Judge (Jr. Divn.), Nabha, has been set aside.

The petitioner is the plaintiff. He has filed a suit for injunction restraining the defendants-respondents from interfering in his possession of the suit property. Along with suit, an application for ad interim injunction has also been filed, which has been allowed by the learned Civil Judge (Jr. Divn.), Nabha, vide order dated 13.4.2018. However, in appeal filed by the defendants-respondents, the said order has been set aside by the impugned order dated 3.1.2020 on the ground that the property in dispute had been sold to respondent No.4 and he is in actual physical possession as well as the fact that possession of the mother of the parties, namely, Kartar Kaur has been admitted in a criminal complaint filed by the petitioner, on the basis of which, a police report dated 22.2.2018 has been prepared.

Learned counsel for the petitioner submits that reliance upon a sale deed executed by mother of the parties, namely, Kartar Kaur in favour of respondent No.4 is erroneous as only agreement to sell dated 7.2.2018 has been executed. Thus, the impugned order is liable to be set aside. Moreover, even if, the petitioner has admitted the possession of Kartar Kaur in the criminal complaint, being a co-sharer in the suit property, he was entitled to protect his possession.

Even, if it is accepted that only an agreement to sell dated 7.2.2018 has been executed, the fact remains that possession of Kartar Kaur has been admitted in the criminal complaint. It is not the case of the petitioner that he is in possession of a specific portion of the suit property and thus, on the basis of being a co-sharer, he cannot claim an injunction against another co-sharer. Still further, none had appeared on behalf of the petitioner before the learned appellate Court and thus, no error was committed by the appellate Court while passing the impugned order.

For the aforementioned reasons, there is no merit in the revision petition and the same is dismissed.

(SUDHIR MITTAL)
JUDGE

05.04.2021

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No