

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

CR-2813-2016 (O&M)

Date of decision: 05.05.2022

Raghubir Singh and another

....Petitioners

Versus

Harpal Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S.Nagra, Advocate for the petitioners
 Mr. Amit Dhawan, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

The plaintiffs' suit under Section 6 of the Specific Relief Act, 1963, for grant of decree of possession has been dismissed by the trial court. The plaintiffs claim that they are owners of the land comprised in khasra no.134 whereas land comprised in khasra no.107 is a public passage. The plaintiffs also claim that the defendants have encroached upon the aforesaid passage as well as some part of khasra no.134.

The trial court held that the plaintiffs failed to prove their forcible dispossession within a period of 6 months prior to the filing of the suit.

Learned counsel representing the petitioners draws the attention of the Court to the report of demarcation wherein it has been recorded that the defendants have encroached upon the land comprised in khasra no.107 (public passage) and 134.

The suit filed under Section 6 of the Specific Relief Act, 1963, is summary in nature. For decreeing such suit, the plaintiff is

required to prove his forcible dispossession within a period of six months, prior to the filing of the suit. The court has dismissed the suit on the ground that the plaintiffs have failed to prove their forcible dispossession.

Learned counsel representing the petitioners contends that the petitioners being the owners are entitled to possession.

In the considered view of the Court, the petitioners are well within their rights to claim possession on the basis of the title. However, such matter can be decided only by filing a regular suit.

Keeping in view of the aforesaid facts, the revision petition is disposed of with liberty to the petitioners to file a regular suit. Needless to observe that the findings arrived at by the court in a summary suit shall not be construed as a final expression on the merits of the case.

All the pending miscellaneous applications, if any, are also disposed of.

05.05.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE