

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR-8538 of 2017 (O&M)  
Date of decision: 22.11.2022

Ram Kishan

..Petitioner

Versus

Suraj Mal

..Respondent

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. R.N.Lohan, Advocate  
for the petitioner.

**ANIL KSHETARPAL, J(Oral)**

While praying for modification of the order passed on 15.05.2013 and 09.03.2017, by the Additional Civil Judge (Sr. Dvin), Jind and the Additional District Judge, Jind, respectively, the present revision petition has been filed.

Despite service of notice of the petition, the respondent has failed to enter appearance.

Relevant facts, in brief, are required to be noticed.

Sh. Ram Kishan, the petitioner herein, filed a suit for specific performance of the agreement to sell against respondent-Suraj Mal. The trial court did not grant the relief of specific performance of the agreement to sell but granted the alternative relief while directing the plaintiff (Sh. Ram Kishan) to put the defendant in possession, if the defendant refunds Rs.70,000/- to the plaintiff.

The plaintiff filed the first appeal, whereas, the defendant Suraj Mal filed the cross-objections. The First Appellate Court vide judgment dated 24.09.2012 decreed the suit filed by the plaintiff for grant of specific

performance of the agreement to sell, whereas, the cross-objections filed by the defendant Sh. Suraj Mal were dismissed.

During the pendency of litigation, Sh. Suraj Mal filed a suit for grant of decree of permanent injunction. In the aforesaid proceedings, the Court ordered the maintenance of status quo by the parties vide order dated 30.08.2007. However, Sh. Suraj Mal in violation of the status quo order, took the possession of the property. The trial Court, on 15.05.2013, allowed Sh. Ram Kishan's application under Order 39 Rule 2-A CPC, however, the First Appellate Court reversed the order dated 15.05.2013, while observing that since the suit for grant of permanent injunction filed by Sh. Suraj Mal has, ultimately, been dismissed on 19.01.2011, therefore, the application under Order 39 Rule 2-A CPC is required to be disposed of without granting any further relief.

This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book

As is evident from the facts noticed above, Sh. Ram Kishan, the petitioner herein, has become the owner of the property pursuant to a decree of specific performance of the agreement to sell passed by the First Appellate Court. In a suit for specific performance of the agreement to sell, Sh. Ram Kishan has consistently been held to be in possession of the property in view of the agreement to sell. The trial court, while allowing the application under Order 39 Rule 2-A CPC, held that Sh. Ram Kishan has been wrongly dispossessed in violation of the interim order. In view of the aforesaid developments, it was not appropriate for the First Appellate Court to set aside the order passed by the trial court on 15.05.2013, wherein Sh. Suraj Mal was directed to deliver the possession.

In the facts of the case, the First Appellate Court is directed to take steps for the delivery of possession to Sh. Ram Kishan in order to conclude the litigation.

In view of the aforesaid, the order is modified. The Executing Court is directed to deliver possession to the petitioner forthwith.

Disposed of accordingly.

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

November 22, 2022

(ANIL KSHETARPAL)  
JUDGE

nt

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |