

104

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

CR-1303-2020

Decided on : 13.07.2022

Charanjit Kaur

. . . Petitioner

Versus

Mukhtar Singh

. . . Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Anupam Bhardwaj, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J. (Oral)

Petition herein, under Article 227 of the Constitution of India is for setting aside the impugned judgment and decree dated 14.07.2016 (Annexure P-2) passed by the learned trial Court under Section 6 of the Specific Relief Act for possession of suit property and permanent injunction.

Learned counsel submits that the trial Court acted contrary to the material on record and erred in not appreciating the evidence which was led by the petitioner. He further submits that the trial Court wrongly dismissed the suit on the grounds of limitation by completely ignoring the fact that the petitioner had filed a suit No.1363/10 dated 28.07.2010, prior to the instant suit, against the respondent, wherein the trial Court had granted interim injunction. However, during the pendency of the aforementioned suit, the respondent took illegal possession of the suit property during the petitioner's absence. Thereafter, the petitioner immediately withdrew the aforesaid suit for permanent injunction and

instituted the instant suit under Section 6 of the Specific Relief Act. He thus submits that in the above circumstances, it cannot be said that the suit in question, had been instituted beyond the period of six months.

I have heard learned counsel for the petitioner and perused the relevant material on record.

The period of limitation prescribed for instituting a suit for recovery of possession under Section 6 of the Specific Relief Act is six months. In order to ascertain as to whether or not the suit was instituted within a period of six months from the date of dispossession, it would be pertinent to reproduce certain extracts from the plaint, which has been annexed as Annexure P-1.

“ 2. That the defendant firstly, interfered and tried to stop the plaintiff from cultivating the land measuring 4 Kanals 19 Marlas, bearing Khata Khatauni No.1076/1778, 1779, having Khasra No.1257, Min, Hadbast No.372, situated at Tung Pai Sub Urban, Tehsil and District Amritsar for which, the plaintiff filed a Suit No.1363/10, dated 28.07.2010 against the defendant in which, the Hon'ble Court pleased to pass injunction order against the defendant. The copy of said order dated 27.10.2012 is annexed herewith. Further, the defendant in the absence of the plaintiff committed theft of articles by breaking open the locks of the suit property and forcibly took the possession of the suit property from the plaintiff illegally and unlawfully for which FIR No.85, dated 08.05.2010 under Sections 447/448/380 IPC was registered against the defendant in Police Station 'A' Division, Amritsar.

3. xxx xxx xxx

4. That the cause of action arose to the plaintiff on 28.04.2009 when the defendant took forcible possession of the suit property and the cause of action finally arose to the

plaintiff a few days back when the defendant with the help of some anti-social elements tried to alienate the suit property. However, the said illegal and unlawful attempt of the defendant was foiled by the plaintiff with the intervention of respectable of the society. However the cause of action still arises to the plaintiff till the moment that passes away.”

A perusal of the above extracts reveal that as per the pleaded case of the petitioner, he was dispossessed from the suit property on 28.04.2009 and thereafter, FIR No.85 dated 08.05.2010 under Sections 447/448/380 IPC was registered at Police Station `A' Division. Amritsar in the said regard. The instant suit came to be instituted on 02.02.2013 i.e. much beyond the prescribed period of six months.

In the circumstances, this Court does not find any error in the impugned order dated 14.07.2016 (Annexure P-2) passed by the learned trial Court.

Dismissed.

(MANJARI NEHRU KAUL)
JUDGE

July 13, 2022
gurpreet

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