

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

Sr.No.118

Civil Revision No.1166 of 2022 (O&M)

Date of Decision: 31st March, 2022.

Parveen

...Revisionist-Petitioner

Versus

Smt. Kamlesh Devi

...Respondent

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Abhimanyu Singh, Advocate,
for the revisionist-petitioner.

* * * *

MEENAKSHI I. MEHTA, J. (ORAL)

Feeling aggrieved by the judgment (Annexure P-5) handed down by the Additional District Judge, Bhiwani (for short 'the Appellate Court') whereby the appeal preferred by the respondent-plaintiff (here-in-after to be referred as 'the plaintiff') against the order dated 01.09.2021 (Annexure P-3) passed by learned Civil Judge (Junior Division) Bhiwani (for short 'the trial Court') qua the dismissal of her injunction application, has been allowed, the revisionist-petitioner-defendant (here-in-after to be referred as 'the defendant') has chosen to prefer the instant revision petition.

The facts, in brief, leading to the filing of the present revision petition, are that the plaintiff filed the Civil Suit against the defendant for seeking a decree for permanent injunction to restrain him from interfering in her peaceful possession over the suit land. Along-with the Suit, she filed an application under Order 39 Rules 1 & 2 read with Section 151 CPC for

seeking interim injunction against the defendant which was dismissed by the trial Court vide the order Annexure P-3. The plaintiff filed the appeal to lay challenge to the above-said order and the same has been allowed vide the impugned judgment Annexure P-5.

I have heard learned counsel for the petitioner-defendant in this revision petition and have also perused the file thoroughly.

Learned counsel for the defendant contends that the defendant is continuing in the actual physical possession over the suit land as a tenant under the mortgagee 'Vaish Maha Vidyalaya Trust' since the time of his father but the Appellate Court has ignored this fact and has wrongly observed that a prima-facie case existed in favour of the plaintiff and has set aside order Annexure P-3 and has allowed the said injunction application and therefore, the impugned judgment is not legally sustainable.

However, I do not find any merit in the afore-raised contention because it has categorically been mentioned in Para No.10 of the impugned judgment Annexure P-5 that the defendant had filed the Civil Suit bearing No.488 of 2015 earlier for seeking a decree for permanent injunction against the plaintiff while claiming himself to be in possession over the same land and the injunction application, as moved by him in the said Civil Suit, had been dismissed vide the order dated 06.08.2015 with the specific observation that he had failed to prove his possession over the said land, prima-facie and though, he preferred an appeal against the above-said order but the same was dismissed vide the order dated 12.10.2016 as having been withdrawn and thereafter, the afore-said Civil Suit had also been dismissed vide the judgment and decree dated 02.02.2017. At this stage, the defendant

has not placed any material on the file to show that the said judgment and decree have ever been challenged by him and have been set aside.

In view of the above-discussed facts and circumstances, it is explicit that the impugned judgment as passed by the appellate Court, does not suffer from any illegality, irregularity, infirmity or perversity so as to call for any interference by this Court. Resultantly, the present revision petition, being *sans* any merit, stands dismissed.

(MEENAKSHI I. MEHTA)

JUDGE

31.03.2022.

seema

Whether speaking/reasoned?	Yes
Whether Reportable?	No