

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

RSA-1115-2022 (O&M)

Date of decision: 23.05.2022

Rajinder Kaur

....Appellant

Versus

Gursharanjit Kaur

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shekhar Verma, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

While assailing the judgment and decree passed by the learned First Appellate Court, the plaintiff has come up in appeal. She filed a suit for grant of decree of permanent injunction claiming to be owner of the suit property. The plaintiff and the defendant are neighbours. The defendant contested the suit while asserting that she is in possession and there is a borewell with submersive motor installed in the aforesaid premises, for supplying water to the defendant's house. It has further been pleaded that electricity connection to the electric motor is also from the defendant's house. It was asserted that the plaintiff was permitted to park her car for some time in the garage of the suit property and now, the property is in possession of the defendant. The trial court, on appreciation of the evidence, granted injunction only on the ground that the plaintiff is in possession. However, it granted a limited relief to the plaintiff by passing an injunction order against forcible dispossession. Learned First Appellate Court has reversed the judgment and decree passed by the trial court after observing that every possession cannot be protected, particularly, when the plaintiff admits that the borewell has supply of water from the defendant's house and the

electricity is also from the defendant's house. The court has further observed that the defendant has produced sale deed Ex.D2 to prove her title. The court further observed that the plaintiff is not entitled to the relief as she concealed material facts.

Heard learned counsel representing the appellant at length and with his able assistance perused the paper book. Learned counsel contends that even after the plaintiff failed to prove her title, still she, being in established possession, should not be permitted to be dispossessed, except in due course of law. The argument of the learned counsel, although attractive in the first blush, however, has no substance on deeper scrutiny. The appellant, after having permitted to park her car for a few days in the garage constructed by the neighbour, wants injunction from the court. She filed a suit claiming to be owner, which she failed to prove. The suit for injunction was based on ownership, in which she failed. Furthermore, if any injunction is granted, the defendant shall suffer irreparable loss and injury as there is borewell, which supplies water to the house of the defendant. In these circumstances, no ground to interfere is made out.

Hence, dismissed.

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

23.05.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE