

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

CR 1805 of 2022 (O&M)

Date of Decision: May 12, 2022

Kuljit Singh Bahia

...Petitioner

Versus

Rashpal Singh Bahia

... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Ashok Singla, Advocate
for the petitioner.

Mr. Nakul Sharma, Advocate for
Mr. M.S. Sachdev, Advocate
for the respondents.

FATEH DEEP SINGH, J. (Oral)

Plaintiff Rashpal Singh Bahia filed a suit against
Kuljit Singh Bahia, the present petitioner then defendant for
permanent injunction restraining the defendant from interfering
into the peaceful possession of the plaintiffs over the property
detailed and described in the head note of the plaint.

The Court of learned Civil Judge (Junior Division)

Phagwara vide order dated 16.09.2021 (Annexure P-6) while disposing of an application under Order 39 Rule 1 and 2 read with Section 151 CPC had dismissed the application for stay.

The plaintiff aggrieved over it preferred an appeal before the Court of learned District Judge, Kapurthala, who through impugned judgment dated 07.04.2022 allowed the appeal and reversed the findings of the lower Court holding that the plaintiff is entitled and defendant is restrained from interfering into the peaceful possession of the appellant/plaintiff in the suit property accept in due course of law. The same is the subject matter of challenge before this Court.

Keeping in view that the parties have concurred on account of the urgency involved to make submissions on merits, this matter was heard.

It is an admitted stand of the two sides that plaintiff Rashpal Singh Bahia alongwith Gagandeep Singh are partners in firm M/s K.B. Foods engaged in manufacturing vegetarian and non-vegetarian items and threatened over the act of the

defendant Kuljit Singh Bahia had instituted the suit in question from interfering in possession of the property and running of the firm.

Appreciating the submissions of the two sides, it is there in the records that the defendant Kuljit Singh Bahia happens to be the attorney of one Apinder Singh who has purchased the property in question through registered sale deed dated 03.05.2020 from the original owners and thus had come to be owner in possession.

It is there well elucidated that Rashpal Singh plaintiff approached the defendant and Apinder Singh for the purchase of this property but on account of bickering between them the deal could not be materialized. The claim of the plaintiff that he had been in possession of the property in question and his statement of account and trade mark certification of the business being run has been controverted by the opposite side on the grounds that Apinder Singh happens to be the owner and in possession of the property on the basis of registered sale

deed on which the plaintiff too has counter signed and which material fact has been withheld by the plaintiff from the Court. The defendant claims to be the attorney of owner Apinder Singh.

The learned trial Court has rightly held that there can be no injunction against a true owner and since Apinder Singh is the owner in possession on the basis of valid registered sale deed and on his being represented by defendant Kuljit Singh Bahia being his attorney and therefore no injunction can be granted against the property owner especially when the plaintiff has countersigned the sale deed to vouch for handing over the possession to the purchaser and therefore is barred by principle of promissory estoppel.

The claim of the plaintiff that he is holder of the lease deed in the the year 2005 in which the plaintiff Rashpal Singh Bahia had counter signed as to the delivery of the possession and therefore it does not suits the plaintiff to blow hot and cold by the same breath. It is not the case of the plaintiff that he is in

possession of the disputed property by legal means neither he claims to be owner, partner or lessee of the original owner in possession Apinder Singh.

To the specific query of the Court by what means he has set up his claim the counsel for the plaintiff was at clearly loss of words. Since the plaintiff had come to the Court a heavy onus lays upon the plaintiff to establish his case beyond shadow of reasonable doubt.

The learned first appellate Court merely on the premise that the plaintiff has taken the lease of the property from earlier owner Naib Singh and the plaintiff himself is a witness to the sale document and the fact of handed over the possession of the property is the subject matter of sale deed to the present owner Apinder Singh he cannot lay any right, title or interest over it on the basis of a document which was in existence in between in the year 2005.

More so, the said document of lease dated 11.08.2005 does not depicts any lease amount or terms of the

lease agreement nor is registered and is of doubtful nature and in violation of Section 37 of Registration Act and Section 35 of Stamp Act and rather appears to be a afterthought document set up for a motivated cause.

At this juncture, the Court is only to see the necessary ingredients of prima facie case, irreparable loss and balance of convenience which ought to be tilted in favour of the appellant.

The impugned order dated 07.04.2022 (Annexure P-7) is wrong appreciation of evidence evident on the file and needs to be reversed by setting aside the same and acceptance of the revision petition.

May 12, 2022
amit rana

(FATEH DEEP SINGH)
JUDGE

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