

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3570 of 2022

Date of Decision: 01.09.2022

Kamaljeet

... Petitioner(s)

Versus

Krishan Lal

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Harneet Singh Oberoi, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

1. The objection petition, filed by the judgment debtor, has been dismissed by the Executing Court. Admittedly, the Civil Court, vide judgment and decree dated 10.03.2015, directed the petitioner to handover the vacant possession of half portion of the house allegedly in the possession of the petitioner, within a period of two months.

2. The learned counsel representing the petitioner contends that the decree is only with respect to half portion of the house in question and the decree holder is already in possession of their half portion of the suit property. He submits that the respondent-decree holder cannot be permitted to take possession of the remaining half portion of the alleged house, from the petitioner.

3. This Court has considered the submissions. On a careful reading of para 1 of the judgment, passed by the Court on 10.03.2015, it is

evident that respondent-Sh.Krishan Lal, while filing the suit, claimed decree

for mandatory injunction with respect to House No. 169, B-III, Forest Colony, Main (Upper) Bazaar, Pinjore, Tehsil Kalka, District Panchkula, existing towards the Southern side of the aforesaid house. He also claimed a decree for permanent injunction restraining the defendant (petitioner) from interfering in his legal, peaceful, actual and physical possession over the remaining portion of House No. 169, B-III, Forest Colony, Main (Upper) Bazaar, Pinjore, Tehsil Kalka, District Panchkula existing towards the Northern side thereof. Para 1 of the judgment is extracted as under:-

*“The plaintiff has filed the present suit for **Mandatory Injunction** directing the defendant to hand over the possession of the half portion of the House no. 169, B-III, near Forest Colony, Main (Upper) Bazar, Pinjore, Tehsil Kalka District Panchkula existing towards the southern side of the above said house and consisting of two rooms and a kitchen and bathroom shown in colour green and marked AFED in the enclosed site plan with consequential relief, of **permanent injunction** restraining the defendant from to part with some another person in any manner whatsoever and for the **recovery of the arrears of the mesne profits** at the rate of Rs 1500/- per month for use and occupation of the premises in question from 10.9.2008 till the possession is handed over to the plaintiff and **further for relief of permanent injunction** restraining the defendant from interfering in legal, peaceful, actual and physical possession of the plaintiff over the remaining portion of the H.NO. 169, B-III near Forest Colony, main (Upper)*

Bazar, Pinjore, Tehsil Kalka, District Panchkula existing towards the Northern side of the said house and consisting of one room with Varandha in front of the same as shown in colour red and marked ABCD in the enclosed site plan in any manner illegally and forcibly”.

4. Thus, it is evident that the Court has passed the decree for possession of half portion of the alleged house after noticing that the remaining half is already in possession of the decree holder.

5. Keeping in view the aforesaid facts, there is no substance in the arguments advanced by the learned counsel representing the petitioner. Hence, the present revision petition is dismissed.

(Anil Kshetarpal)
Judge

September 01, 2022

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No