

122 IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR-4065-2022  
Decided on:-22.09.2022

Balbir Singh

....Petitioner...

vs.

Paramjit Singh and another

....Respondents.

**CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Lalit Chander Sharma, Advocate,  
for the petitioner.

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**HARKESH MANUJA J. (Oral)**

By way of present revision petition, the petitioner-plaintiff has challenged orders dated 22.09.2021 and 12.05.2022 passed by the courts below, whereby, his application filed under Order 39 Rule 1 and 2 CPC for grant of interim injunction, has been dismissed.

The facts of the present case are that a suit for permanent injunction was filed by the petitioner-plaintiff regarding “rurri” situated in Khasra No.626 (0-2 marlas) with the averments that the same had remained in possession of his father for the last more than 20 years as tenant and after his death on 29.04.2017, it was the petitioner along with respondent No.1 i.e. his brother, who continue to be in possession of the same. The petitioner filed the suit with a prayer for restraining the defendants-respondents from interfering in his possession over the suit property as well as restraining them from demolishing the construction made thereupon. Along with the suit, the petitioner also moved an application under Order 39 Rule 1 and 2 CPC for grant of interim injunction. The learned trial court vide its order dated

22.09.2021, dismissed the aforesaid application. Aggrieved against the aforesaid order, the petitioner filed first appeal, however, the same has also been dismissed vide order dated 12.05.2022, passed by the court of Additional District Judge, Sangrur.

3. In the present revision petition, while assailing both the orders passed by the courts below, it has been contended on behalf of the petitioner that the father of the petitioner, namely, Dayal Singh was in occupation of the suit property for the last more than 20 years and after his death on 29.04.2017, it is the petitioner along with his brother i.e. respondent No.1, who have continued to be in possession thereof. He further submits that in the facts and circumstances of the present case, both the courts below fell into an error while declining the prayer made by him for grant of interim injunction.

4. Having heard learned counsel for the petitioner and having gone through the records, I find no infirmity and illegality in the orders passed by both the courts below.

5. As regards the contention of learned counsel for the petitioner that the father of the petitioner happened to be a tenant over the property in question and after his death, the petitioner and respondent No.1 have continued to be in possession thereof, I find no force in the same. Not even any prima facie evidence has been brought on record, so as to show the payment of rent in favour of the owner, either by the petitioner or even by his deceased father. In the absence of any proof of rent having been paid, the possession of the father of the petitioner being that of "gair mairusi" cannot by any stretch of imagination be presumed to have devolved upon the petitioner or even upon his brother i.e. respondent No.1. Both the courts

below have also taken note of the fact that the owner of the property in question, as recorded in the revenue record, has not been impleaded as party to the suit and in his absence rights in the property cannot be ascertained. More than that, no revenue document has been produced on record so as to show the exclusive possession of the petitioner over the property in question.

6. Considering the aforesaid facts, I do not find merit in the present revision petition and the same is dismissed.

7. Pending application(s), if any, shall also stand disposed of.

**(HARKESH MANUJA)**  
**JUDGE**

22.09.2022  
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Whether speaking/reasoned: Yes/No  
Whether reportable: Yes/ No