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

**CR-2321-2020 (O&M)
Reserved on : 04.05.2023
Date of decision : 12.05.2023**

Sushma Rani & Others

... Petitioner(s)

Versus

Sanjeev Kumar @ Sippa

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ajay Kumar Gupta, Advocate for the petitioners.

Mr. Sunil Chadha, Senior Advocate with
Mr. Tara Dutt, Advocate for the respondent.

ALKA SARIN, J.

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 17.09.2020 (Annexure P-1) rejecting the application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (CPC) filed by the defendant-petitioner; and for setting aside the order dated 17.09.2020 (Annexure P-2) whereby on the application under Order 39 Rules 1 and 2 CPC the defendant-petitioners have been restrained from forcibly and illegally interfering in the possession of the plaintiff-respondent over the suit property.

2. Learned counsel for the petitioners would contend that the suit filed by the plaintiff-respondent is not maintainable and is barred by law

inasmuch as the defendant-petitioner No.1 is the daughter-in-law and as per the law she is entitled to a residence in a shared household which is owned by her in-laws. Learned counsel in support of his arguments has relied upon the judgments in the cases of **Satish Chander Ahuja Vs. Sneha Ahuja [2021 (1) SCC 414]**; **Subhash & Anr. Vs. Shivani [2016 (4) RCR (Civil) 21]**; **Anita Kumari @ Anita Rani & Ors. Vs. Kishan Kumar & Anr. [2018 (4) RCR (Criminal) 884]** and **T. Arivandandam Vs. T.V. Satyapal [1977 (4) SCC 467]**. Learned counsel has further relied upon the judgment of this Court in the case of **Sunita Rani Vs. Sushil Kumari [2015 (66) RCR (Civil) 842]** to contend that status of son or daughter-in-law in the house owned by the father and father-in-law, mother and mother-in-law is that of a licensee and in case the licensor does not want licensee in the house, he or she can always seek possession by filing a suit for mandatory injunction. Regarding the impugned order dated 17.09.2020 (Annexure P-2) passed on the application under Order 39 Rules 1 and 2 CPC, it is submitted that as the suit itself was not maintainable there was no occasion for the Trial Court to grant any ad-interim injunction in favour of the plaintiff-respondent.

3. Learned senior counsel appearing on behalf of the plaintiff-respondent has contended that the present suit is simpliciter for permanent injunction restraining the defendant-petitioners from forcibly and illegally interfering in the peaceful possession of the plaintiff-respondent over the residential house in dispute. There is no prayer for eviction of the defendant-petitioners from the house and hence the argument raised by learned counsel for the defendant-petitioners that no suit would be maintainable against a

daughter-in-law for eviction, except for a suit for mandatory injunction, cannot be accepted. It is further the contention of learned senior counsel that the application under Order 7 Rule 11 CPC (Annexure P-5) itself does not even so much as refer to the term 'shared household' or that the defendant-petitioner No.1 has a status of a licensee. It is submitted that the defendant-petitioner Nos.1 and 2 are the parents of the daughter-in-law (defendant-petitioner No.1) and would in any case have no right over the property of the plaintiff-respondent.

4. I have heard learned counsel for the parties.

5. In the present case, a simpliciter suit for permanent injunction has been filed to the effect that the defendant-petitioners be restrained from forcibly and illegally interfering into the peaceful possession of the plaintiff-respondent over the residential house situated in Ward No.10 Ratia, Tehsil Ratia, District Fatehabad comprised in Khewat No.1320 Khasra No.618/3/2 (0-11) situated in Ratia Gair Mustkil.

6. There can be no quarrel with the proposition as laid down in the judgments relied upon by learned counsel for the defendant-petitioners that a daughter-in-law has a right of residence in a shared household. The argument of learned counsel for the defendant-petitioners that the plaint ought to be rejected on the ground that only a suit for mandatory injunction for eviction of the daughter-in-law can be filed and no suit for permanent injunction is maintainable, who would at best be a licensee, while relying on the judgment in the case of **Sunita Rani** (supra) deserves to be rejected on the ground that a meaningful reading of the plaint in the present case reveals that the only prayer made therein is for restraining the defendant-petitioners

from interfering in the peaceful possession of the plaintiff-respondent. There is no prayer whatsoever for evicting the defendant-petitioners from the suit property. Hence, the said argument of learned counsel for the defendant-petitioners is wholly misplaced. The suit being simpliciter for permanent injunction would, hence, be maintainable and the plaint cannot be rejected under Order 7 Rule 11 CPC. Further, the Trial Court found that the defendant-petitioners are utter strangers to the suit property and therefore granted an ad-interim injunction in favour of the plaintiff-respondent. No arguments have been addressed to counter the said finding.

7. In view of the above, I do not find any merit in the present revision petition. The same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

8. Dismissed.

12.05.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO