

2023:PHHC:134525

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

CR-2224-2021 (O&M)
Date of decision: 16.10.2023

Balwinder Kaur

...Petitioner

Versus

Harjit Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. K.S.Boparai, Advocate for the petitioner

Mr.Vivek K Thakur, Advocate for respondent no.1

ANIL KSHETARPAL, J (Oral)

1. This revision petition has been filed by defendant no.7 to challenge the correctness of the order passed by the First Appellate Court while granting temporary injunction to the plaintiff (respondent herein) from forcible dispossession. The plaintiff filed a suit claiming to be a widowed lady. She submitted that Sh. Amarjit Singh, who was the original owner, exchanged the plot in question in lieu of the plot owned by the plaintiff.

2. The defendant contested the suit by claiming that she is an owner in possession of the property on account of the sale deed dated 07.03.2019, executed by Ms. Paramjit Kaur. The First Appellate Court relied upon a demarcation report submitted by the revenue official to the effect that the plaintiff is in possession of 3 marlas plot. The trial court did not grant injunction, however, the First Appellate Court granted injunction in favour of the plaintiff

against the forcible dispossession based on the said demarcation report. The correctness of the aforesaid order has been challenged in this revision petition.

3. Learned counsel representing the petitioner (defendant no.7) contends that the petitioner is owner of the property on the basis of a registered sale deed executed on 07.03.2019, and therefore no injunction against the true owner can be granted.

4. On the other hand, the learned counsel representing the respondent, while drawing the attention of the Court to the demarcation report dated 31.05.2019, submits that the plot comprised in khasra no.11//8/3/0-5, 8/6/0-2, which was originally owned by the plaintiff (respondent herein) is in possession of Sh.Balbir Singh, deceased husband of Smt. Paramjit Kaur, vendor of the petitioner. He submits that after having constructed the house on the plot owned by the plaintiff (respondent herein), on the basis of exchange, the petitioner is not disputing the exchange.

5. This Court has considered the submissions made by the learned counsel representing the parties. There are two demarcation reports available on the file. The first demarcation report prima facie establishes that the respondent (plaintiff before the trial court) is in possession of the property whereas the second demarcation report shows that late Sh.Balbir Singh constructed a house on the plot, which was under the ownership of the plaintiff (respondent herein). At this stage, it will not be appropriate to express a final

opinion on the merits of the case. There is prima facie evidence in favour of the respondent. The suit is still pending.

6. Keeping in the aforesaid facts, the revision petition is disposed of with a request to the trial court to decide the suit expeditiously, preferably within a period of one year, from today.

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

16.10.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE