

CR-4668-2022 (O&amp;M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CR-4668-2022 (O&M)  
Date of decision: 16.05.2024

PARVESH

..Petitioner

Versus

SANJEEV SINGH AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhimanyu Singh, Advocate  
for the petitioner.Mr. Jasdev Singh Thind, Advocate  
for respondent No.1.Mr. Sudhir Aggarwal, Advocate  
for respondent No.2.**ANIL KSHETARPAL, J(Oral)**

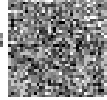
1. This revision petition has been filed by defendant no.2, who is vendee from defendant No.1. Sh. Sanjeev Singh son of late Sh. Dilpat Singh filed suit for grant of decree of declaration against his alleged step-mother Smt. Raj Bala.

2. The plaintiff has prayed for the following reliefs:-

*“A. A declaratory decree passed in favour of plaintiff and against defendants that the house cum land in question is having the possession of plaintiff up to the share of ownership as per records.*

*B. A decree of mandatory injunction being passed against defendant no.2 to get the share demarcation for sake of enjoying their shares in property in question.*

*C Any other relief which this Hon'ble Court may deem fit and proper may also be granted to the plaintiff.”*



3. In the suit, it has been alleged that some part of the property has been transferred by Smt. Raj Bala in favour of Smt. Parvesh (petitioner herein) by virtue of a sale deed. The plaintiff also filed an application under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC') for restraining the defendants from interfering in his peaceful possession.

4. Without deciding application for temporary injunction, on 08.08.2022, the Court passed the following order:-

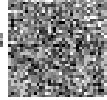
*"Today the case was fixed for appearance of defendant. Power of attorney filed on behalf of defendant no. 2. Despite service of defendant no. 1 through whatsapp she failed to appear therefore she is proceeded against exparte. Adjournment sought for filing WS. Heard & allowed. However at this stage, on the request of counsel for plaintiff and keeping in the peculiar facts and circumstances of the case, both the parties plaintiff and defendant no. 2 are restrained from collecting rent from the house bearing number 30/2 from the tenants till next date. Now to come upon 02.09.2022 for filing WS."*

5. Thereafter on 02.09.2022, the following order was passed:-

*"Today the case was fixed for filing WS. WS filed on behalf of defendant no. 2. Power of attorney filed on behalf of defendant no. 2. Adjournment sought for argument on application under Order 39 Rule 1 & 2 of CPC. Keeping in view the peculiar facts and circumstances of the case the plaintiff and defendant no. 2 are directed to collect arrears of rent from their respective tenants along with the receipts and deposit the same in the court on the next date and argument will also be heard on the next date i.e 26.09.2022 at 10:00 am positively."*

6. On 26.09.2022, the following two orders were passed:-

*"1- Today the case was fixed for depositing arrears of rent by both the parties. Both the parties agreed to deposit the same to the extent of Rs. 2,17,980/- by defendant no. 2, Rs. 26,230/- by plaintiff. At this stage an application under Order 1 Rule 10 has been moved by applicant Sheela, both the parties endorsed no objection on the application itself, therefore the same is allowed."*



*Now to come upon for filing amended title on the next date. Today an application for granting permission for eviction of tenant for personal use has been moved by plaintiff. Now to come upon for filing reply and argument on this application. Reply on the application for appointment of receiver has not been filed, the same be filed on the next date. Now to come upon 12.01.2023 for arguments on two applications, one for eviction of tenant for personal use and other for appointment of receiver as well as for argument on application under Order 39 Rule 1 & 2 of CPC. Now to come upon after lunch regarding depositing of aforesaid amount of arrears of rent.*

*2- File taken up after lunch but DD could not be prepared in the bank as the parties were not having their account in the bank SBI situated in the court. Now both the parties are directed to appear on 30 September, 2022 in SBI complex along with necessary documents so that a joint account in the name of Sanjeev (plaintiff) and Pravesh defendant no. 2 can be opened so that so long as the suit is pending, the rent can be deposited in that account with direction to the bank to retain the same so long as further direction is given by the court in this regard. Now the plaintiff and defendant are directed to get the account opened within next 5 days and deposit the said amount in that account and submit the receipts on the next date. Interim order already granted shall continue.”*

7. It is evident from reading of order dated 26.09.2022, the case is yet to be taken up for adjudication on prayer for temporary injunction.

8. The learned counsel representing the respondents (plaintiffs) submits that the order has been passed with the consent of the parties.

9. This Court has considered the submissions of the learned counsel representing the parties.

10. In the considered opinion of the Court, it was not appropriate for the trial Court to pass any orders directing the vendee to deposit the rent after collecting it from the tenants particularly when the sale deed has never been set aside.

11.           Keeping in view the aforesaid facts, the impugned orders to the extent of directing the vendee to deposit the rent are set aside with liberty to the trial Court to pass fresh order in accordance with law.
12.           With these observations, the revision petition is disposed of.
13.           All the pending miscellaneous applications, if any, are also disposed of.

May 16<sup>th</sup>, 2024

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(ANIL KSHETARPAL)  
JUDGE

Whether speaking/reasoned       :       Yes/No

Whether reportable                :       Yes/No