



121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7820-2023 (O&M)

Date of decision : 10.02.2025

Smt. Jatinder Jit Kaur and others

...Petitioners

Vs.

Jasbir Singh and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajesh Sethi, Advocate
Mr. Anshuman Sethi, Advocate
Mr. Pawandeep Singh, Advocate
Mr. Arun Kumar Biriwal, Advocate
for the petitioners.

Mr. Pardhuman Garg, Advocate
for respondent No.1.

Mr. Aayush Gupta, Advocate
for respondent No.2.

ANIL KSHETARPAL, J. (Oral)I Brief Facts:-

1. The plaintiff assails the correctness of concurrent orders passed by the Courts below while refusing to grant *ad interim* injunction. The plaintiffs and defendant No.2 were joint owners of the property. The defendant No.2 is alleged to have sold an area of approximately 1/3rd share by a registered sale deed in favour of defendant No.1. In para No.7 of the plaint, the plaintiffs have asserted that a portion of the main residential *Kothi* constructed in an area of 200 sq. yard, which fell in the share of Sh. Kuljinder Singh Girn. The plaintiffs also claim that they were dispossessed illegally by defendant No.1.



2. In paras 14 and 16 of the plaint, the plaintiffs claimed that they are entitled to delivery of possession by defendant No.1. The suit was filed under Section 6 of the Specific Relief Act, 1963, for restoration of possession on the ground that they have been forcibly dispossessed. The trial Court as well as the First Appellate Court, in the facts and circumstances of the present case refused to grant injunction on the ground that if injunction is granted against the defendants then they cannot use such common passage for entering in the house, which is in his exclusive possession.

II. **Arguments put forth by the learned counsel representing the parties:-**

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

4. Learned counsel representing the petitioner while relying upon Section 44 of the Transfer of the Property Act, 1882 and the judgment passed in '***Dorab Cawasji Warden vs. Coomi Sorab warden***' AIR 1990, Supreme Court 867, submits that undivided 1/3rd share of the joint property was sold and the defendant No.1 has no right to enter into possession. He further submits that defendant No.1 has put an iron grill, which is obstructing plaintiff's passage.

5. *Per contra*, learned counsel representing the respondents submits that iron grill has been put not in the passage but in order to protect the portion which is in their possession. While referring to Annexure P-1, a lay out plan, it has been submitted that an open *verandha*, which was constructed in order to enter into the portion and is in possession of defendant No.1, has only been



secured by putting grill which is not in any manner obstructing the plaintiff's passage.

III **Analysis and Discussion:-**

6. This Court has considered the submissions made by the learned counsel representing the parties.

7. With respect to the judgment passed by the Supreme Court in ***Dorab Cawasji Warden's case*** (supra), the same can be considered only when the suit is decided. At this stage, defendant No.1 is admitted to be in possession of the portion shown with yellow color by the plaintiff in layout plan. The iron grill has been shown with dotted lines. It is only to secure the portion which is in possession of defendant No.1. It is no where obstructing the plaintiff's passage. The plaintiff has a passage after she enters the main gate and travels through the open yard. Similarly, she also has a passage which is 6'6" wide while going towards left from the main gate.

IV **Decision:-**

8. Keeping in view the aforesaid facts, no ground to interfere in the concurrent orders of the Courts below is made out.

9. The revision petition is dismissed.

10. However, trial Court is requested to expedite the disposal of the suit.

(ANIL KSHETARPAL)
JUDGE

10.02.2025
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No