

---

**(2002) 11 P&H CK 0092**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Crl.O.C.P. No. 22 of 1996**

Bela Singh

APPELLANT

Vs

Gurcharan Singh

RESPONDENT

---

**Date of Decision :** 01-11-2002

**Acts Referred:**

**Citation :** (2003) 1 CCJ 54 : (2003) 1 RCR(Criminal) 67

**Hon'ble Judges :** R.L.Anand, J and Hemant Gupta, J

**Advocate :** Shri O.P. Nagpal, Advocate. Shri R.S. Sandhu, Advocate., Advocates  
for appearing Parties

---

## Judgement

Hemant Gupta, J.

1. The present competent petition has been filed by Bela Singh alleging therein that respondent No. 1 Gurcharan Singh entered into an agreement to sell agricultural land measuring 19 bighas 1 biswas on 16.1.1989. Since respondent No. 1 failed to execute the sale deed, he filed a suit for specific performance on 2.6.1993 along with application under JUDGMENT 39 rules 1 and 2 of the Code of Civil Procedure seeking adinterim injunction restraining respondent No. 1 from alienating and dispossessing the petitioner from the suit land. The trial Court confirmed the order of status quo on 14.9.1993 after respondent No. 1 filed written statement.

2. Subsequently, the respondents father and son filed a suit for permanent injunction on 27.9.1993 along with an application for adinterim injunction restraining the present petitioner from dispossessing or disturbing the possession of the suit land. However, the adinterim injunction order was granted by the Court. By virtue of adinterim injunction. The present petitioner was restrained from dispossessing the respondents from the suit land but it was also mentioned in the order that it will not affect any action taken in due course of law or as per the order of any authority competent under law. The grievance of the petitioner is that the respondents have not disclosed the filing of the previous suit as well as the order passed by the Court and thus they have abused the process of law.

3. It is further alleged that during the pendency of the suit filed by the present respondents, the respondents herein filed another suit for permanent injunction on 11.10.1994 along with application for ad interim injunction under JUDGMENT 39 rules 1 and 2 of the Code of Civil Procedure. In the said suit, an ex parte injunction order was passed. Even in the said suit, the respondents had not disclosed the filing of the previous suit between the parties. It was thus contended that concealing of facts of previous litigation between the parties was with a view to mislead the Court to obtain favourable order and thus amounts to abuse of process of law. In pursuance to the notice issued the respondents stated that they are illiterate and marked their thumb impressions whereas the petitioner is a retired Deputy Superintendent of Police and is an influential person. Petitioner is using these tactics to pressurise the respondents in order to grab his land. It was further mentioned that the petitioner has a remedy under JUDGMENT 39 rule 2A of the Code of Civil Procedure. In the end, respondents tendered unconditional apology that they are illiterate persons and if any fact could not be explained that was only because of illiteracy.

4. We have heard the counsel for the parties and with their assistance have gone through the record of the case.

5. In the first suit for permanent injunction filed by the respondents, they had made reference to admission of the petitioner regarding cultivating possession of plaintiff No. 1 in Civil and Revenue Court at Patiala. In the second suit as well Annexure P9 again reference is made to the deposition of the petitioner admitting the right, title and possession of plaintiff No. 1 as scribe of the will in favour of the plaintiff.

6. A reading of the plaint, Annexure P6 and P9 does show that there was the previous litigation between the parties wherein the petitioner appeared as the witness as well. The reading of such plaint does not conclusively prove that there was any intention of the respondent to mislead the Court with a view to obtain favourable order. The failure to disclose the previous litigation between the parties is not sufficient to hold that the respondents have committed criminal contempt as defined under Section 2(c) of the act. As mentioned above, the respondents are illiterate persons depending upon Advocate. Suits, Annexures P6 and P9, have been filed through one and the same Advocate and in fact, the said Advocate was engaged in suit for specific performance as well by the respondents herein.

7. Although the allegations in the subsequent suit are vague but keeping in view the fact that the respondents are illiterate and are being engaged by one and the same Advocate in all the proceedings, we do not think that there was any wilful intention on the part of the respondents to mislead the Court. Therefore, we do not find that the respondents have committed criminal contempt which may warrant further action. Therefore, the rule is discharged. Petition is dismissed.