

(1987) 03 P&H CK 0104
In the Punjab And Haryana At Chandigarh
Case No : Civil Rev. No. 3206 of 1986

COMMISSIONER OF INCOME TAX and Another

APPELLANT

Vs

VARINDER KUMAR JINDAL.

RESPONDENT

Date of Decision : 09-03-1987

Acts Referred:

Citation : (1987) 63 CTR 330

Hon'ble Judges : S. P. Goyal, J

Bench : Division Bench

Judgement

S. P. Goyal, J. - The plaintiff filed a suit for mandatory injunction for the return of Rs. 37,331 and the files recovered from the office alleged to be belonging to him and situate in the house of Om Prakash. It is admitted that there was no search warrant against the plaintiff. The Income Tax authorities are challenging the jurisdiction of the Civil Court on the ground that the office did not belong to the petitioner and any action taken against Om Prakash under the search warrant issued against him would not be open to challenge in the Civil Court. For determining whether the suit is competent or not, the allegations in the plaint are only to be taken notice of and not the pleas of the defence. If the pleas of the plaintiff are found to be incorrect, the suit would be liable to be dismissed on merits and not because it was not maintainable in the civil court. If the plea taken is correct that the office from where the said money or documents were taken possession of belonged to the plaintiff, the impugned action would obviously be unauthorised and the plaintiff would be entitled to the relief claimed for. No fault, therefore, can be found with the impugned order and this petition is accordingly dismissed. No costs.