

(2013) 03 P&H CK 0148
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1143 of 2013

Manjinder Singh

APPELLANT

Vs

Bhupinder Singh

RESPONDENT

Date of Decision : 04-03-2013

Acts Referred:

Citation : (2013) 03 P&H CK 0148

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Raj Mohan Singh, for the Appellant; P.S. Khurana, for the Respondent

Judgement

K. Kannan, J.—The revision is against the dismissal of the petition for injunction by the Courts below sought at the instance of the plaintiff who claimed that he was in continuous possession pursuant to lease granted for a period of 15 years for establishing a brick kiln. Admittedly, the lease period has expired on 30.3.2012. The landlord did not consent to his continuance of possession and therefore the tenant who stayed in possession beyond the lease period sought for injunction. There is no provision of law that the tenant who stays in possession beyond the tenure of lease will have a right to be protected in possession beyond the lease period, unless the possession is protected by statute. Such statutory protection may be available specifically in terms of some Rent Control Legislation or through any local legislation protecting a tenant beyond the period of lease. Unless the tenant has a statutory protection against eviction, the tenant is liable to be evicted on the expiry of the period of lease. Learned counsel refers me to the judgment of the Supreme Court in *Walter Louis Franklin (Dead) Through Lrs. Vs. George Singh (Dead) Through Lrs.*, to contend that a person in possession of immovable property is entitled to injunction even against the true owner. The Court was considering the case of a tenant who had taken possession of property as a lessee in respect of a building to which a Rent Control Legislation was applicable and as a tenant he was entitled to be protected. The situation does not obtain in this case. Learned counsel also refers

to a judgment in Rame Gowda (D) by Lrs. Vs. M. Varadappa Naidu (D) by Lrs. and Another, The Court was considering the case of the plaintiff who was in settled possession and a person claiming to be true owner was seeking to disturb his possession. The Court held that where the issue of nature of possession was required to be adjudicated, a person in settled possession could not be thrown out of the Court even if he were a trespasser, the Court would come to his aid to protect his possession till the respective rights of parties are decided. In this case the character of possession is that of a tenant at sufferance and I have not been shown to the benefit of specific legislation granting him the statutory protection against dispossession beyond the period of lease. There cannot be therefore an injunction and the injunction has been rightly rejected by the two Courts below.

2. The order is maintained and the revision is dismissed.