
(1990) 01 P&H CK 0074
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2346 of 1990

Shri Om Parkash Goyal, Advocate

APPELLANT

Vs

Shri Ram Krishan Chhokar, Advocate

RESPONDENT

Date of Decision : 14-01-1990

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2, 115

Citation : (1992) 1 ILR (P&H) 76 : (1991) 99 PLR 410 : (1991) 1 RCR(Rent) 604

Hon'ble Judges : I.S. Tiwana, J

Bench : Single Bench

Advocate : Nemo, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

I.S. Tiwana, J.—Briefly the facts of the case are as follows :

The petitioner having purchased House No. 1199, Sector 8-C Chandigarh, has become its owner and the same is under the tenancy of the defendant-respondent since February 1969. Undisputably, it is a partially contracted house, i.e. area measuring 845 sq. ft. has been constructed whereas, as per the rules and regulations, an area to the extent of 2,000 sq. ft can be constructed. The total area of the plot is 500 sq yards The petitioner wants to construct the unbuilt part of the permissible area. Since the respondent-tenant resisted this effort of the petitioner, the latter filed a suit for permanent injunction restraining the respondent tenant from interfering in the rights of the petitioner to visit and inspect the premises and to take all steps, including the construction activity over the vacant portion of the demised premises. Along with the plant. he filed an application under Order 39, Rules I and 2, Civil Procedure Code, for the grant of ad interim injunction Though initially the trial Court allowed this prayer made by the petitioner, yet on appeal the learned Additional District Judge, Chandigarh, has dismissed the above noted application filed by the petitioner.

2. Having perused the orders of the two Courts below, I find that the one passed

by the Appellate Court is wholly sustainable. The material factual finding recorded by the Court in this regard is to the following effect:-

"From this prima facie it becomes clear that the appellant is a tenant not only on the constructed portion. but also on the vacant portion of that property in the shape of kitchen garden, front and back lawns and the path way His possession over the entire property cannot be disputed by the plaintiff because the plaintiff has himself pleaded that his Architect on one occasion and he and his Architect on the other occasion were not allowed by the appellant to enter the demised premises for preparing the site plan of the constructed portion The appellant cannot be said to be a licensee over the disputed property. He is in possession thereof as a tenant in his own right and unless he is ejected from the demised premises in accordance with law, the landlord cannot force his entry into the property. Of course, the landlord has a right to inspect the premises at reasonable hours with the permission of the tenant and this has been so accepted in his written statement."

This appears to be the correct enunciation of the legal position, as discussed by the lower Court Therefore, I do not see any merit in this petition and the same is dismissed but with be order as to costs.