



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CR-422-2025 (O&M)
Date of Decision: 08.05.2025

Kulbir Singh

...

V/s

Gurmanpreet Singh

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Sandeep Arora, Advocate, for the petitioner.
Mr. V.K. Sandhir, Advocate, for the respondent.

VIKRAM AGGARWAL, J (ORAL)

The petitioner-plaintiff (Kulbir Singh) assails the order dated 31.08.2024 passed by the Court of learned Addl. District Judge, Tarn Taran, allowing the appeal filed by the respondent-defendant against the order dated 18.11.2022 passed by the Court of learned Addl. Civil Judge (Sr. Divn.), Tarn Taran, vide which the application under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short the "CPC") was allowed, thereby dismissing the said application.

2. Yet again, the litigation is between father and son. The petitioner-plaintiff (Kulbir Singh), who is the father of the respondent-defendant (Gurmanpreet Singh) instituted a suit for permanent injunction restraining the defendant from interfering in the peaceful possession of the plaintiff in a shop (fully described in the plaint) situated in the area of Main Bazar, Chohla Sahib, Teshil and District Tarn Taran (hereinafter referred to the as the "disputed shop").

3. The case was that the petitioner-plaintiff was the owner of a Halwai (sweet) shop for the last 51 years. It was previously a single storey shop which was reconstructed to a triple storey shop by the petitioner-



plaintiff by spending a huge amount. He had been running the business of sweets from the disputed shop. He had two sons namely Guravtar Singh and Gurmanpreet Singh, both of whom were settled. It was averred that one son was running a shop of sale of shoes and respondent-defendant was also in possession of another shop but he was still interfering in the possession of the petitioner-plaintiff over the disputed shop. It was averred that the respondent-defendant had been threatening him that he would get the possession of the disputed shop with the help of police and would also file false complaints against him. It was averred that the petitioner-plaintiff and his wife were Senior Citizens and the respondent-defendant had been abusing both of them and had been threatening them that if the disputed shop was not handed over to him, they would have to suffer consequences.

3.1. The suit was accompanied by an application under Order 39 Rules 1 and 2 CPC for the grant of *ad interim* injunction. The suit was opposed by the respondent-defendant. In the written statement (Annexure P-3), certain preliminary objections as regards maintainability, *locus standi*, cause of action, the petitioner-plaintiff not having approached the Court with clean hands etc. were raised. On merits, all averments made in the plaint were denied. It was averred that originally the disputed shop was owned by Inder Singh, who expired in 1969. He left behind his three sons namely Kulbir Singh (petitioner-plaintiff), Darshan Singh and Charanjit Singh. All sons equally inherited the property of Inder Singh, which included the disputed shop. After the death of Inder Singh, Darshan Singh and Charanjit Singh had been running the disputed shop as Kulbir Singh was of very young age. It was averred that the disputed shop had been constructed by Kulbir Singh, Darshan Singh and sons of Charanjit Singh after dismantling the previous structure. The electricity meter was in the name of Inder Singh and the bills



were being paid by the respondent-defendant. It was averred that Darshan Singh and sons of Charanjit Singh had transferred their shares (2/3rd in total) in the disputed shop to the respondent-defendant (Gurmanpreet Singh) vide an agreement dated 22.03.2021 as a result of which he became a co-sharer in the disputed shop. It was averred that, thereafter, he had been running the shop along with his father, being a co-sharer to the extent of 2/3 share.

3.2 It was also averred that the shop referred to in the plaint and alleged to be in possession of the respondent-defendant was not in a good condition and was not fit for human habitation. It was averred that the respondent-defendant had performed a love marriage against the wishes of the petitioner-plaintiff as a result of which the petitioner-plaintiff was not supporting him. All other averments were denied. Reply to the application under Order 39 Rules 1 and 2 for the grant of *ad interim* injunction was also filed.

4. The trial Court allowed the application for the grant of *ad interim* injunction. However, the appeal preferred by the respondent-defendant was allowed by the Court of Addl. District Judge, Tarn Taran, leading to the filing of the present revision petition.

5. I have heard learned counsel for the parties.

6. Learned counsel for the petitioner submits that the petitioner is the owner of the disputed shop. He submits that any agreement to transfer share in an immovable property would not confer any right since any property above the value of Rs.100/- can only be transferred by way of a registered document. Learned counsel has submitted that both Courts rightly observed the said fact. However, the first appellate Court, erroneously passed an order of *status quo*. Learned counsel submits that an order of *status quo* in such a situation is not called for. He submits that the respondent-defendant is



in the habit of physically assaulting the petitioner-plaintiff and his wife and, therefore, the order of *status quo* is even more dangerous and risky in so far as the petitioner-plaintiff and his wife are concerned, as they are Senior Citizens and are not in a position to defend themselves.

7. *Per contra*, learned counsel for the respondent-defendant has submitted that all electricity bills were being paid by the respondent-defendant and various certificates in his favour were produced. Learned counsel contends that it is the respondent-defendant who had been working in the disputed shop and only on account of the love marriage having been performed by him that the petitioner-plaintiff had stopped supporting him. Learned counsel submits that there is no illegality in the order passed by the first appellate Court.

8. I have considered the submissions made by learned counsel for the parties.

9. Admittedly, the disputed shop was initially owned by Inder Singh, father of the petitioner-plaintiff. It is also a conceded position that after the death of Inder Singh, the disputed shop was inherited in equal shares by the three sons of Inder Singh namely Darshan Singh and Charanjit Singh and Kulbir Singh (petitioner-plaintiff). The respondent-defendant claims to have become the owner of 2/3rd share in the disputed shop on account of an agreement dated 22.03.2021 having been executed in his favour by Darshan Singh and sons of Charanjit Singh. However, both Courts rightly found that no reliance could be placed upon any such document, for, any immoveable property beyond the value of Rs.100/- could have been transferred only by way of a registered deed.

10. To show that the petitioner-plaintiff was in possession of the disputed shop, apart from photographs, he produced on record a certificate



issued by the competent authority under the Food Safety and Standards Act, 2006 in the name of the petitioner-plaintiff showing him as the proprietor of M/s Kulbir Sweet Shop which was valid from 16.01.2019 for a period of five years. The name of the shop is also M/s Kulbir Sweet Shop. The electricity meter is in the name of Inder Singh. Merely because the respondent-defendant is in possession of receipts of payment of electricity bills, would not mean that it was he who had been paying the bills.

11. The petitioner-plaintiff proved that there was a *prima facie* case in his favour. He was also able to prove the balance of convenience was in his favour and that in case injunction was not granted, he would suffer an irreparable loss. It has to be borne in mind that for the grant of *ad interim* injunction, only these factors have to be considered. It is also to be borne in mind that the petitioner-plaintiff and his wife are in the evening of their lives. For a father to institute a suit against his son would be one of the most painful things. He must have been driven to the wall which in all probability led him to file the suit. This Court stops short from commenting any further on the matter, lest it may be construed to be an opinion on the merits of the case.

12. In the considered opinion of this Court, the Court of learned Addl. District Judge, Tarn Taran erred in passing of an order of status quo in such a situation. The trial Court had considered the matter from the correct perspective and had rightly granted the injunction.

13. In view of the totality of the facts and circumstances, as noticed above, the instant revision petition is allowed. The order dated 31.08.2014 passed by the Court of learned Addl. District Judge, Tarn Taran is set aside and the order dated 18.11.2022 passed by the Court of learned Addl. Civil Judge (Sr. Divn.), Tarn Taran, is upheld.



Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

May 08, 2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No