



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

CR-1985-2022

Date of decision: 27.05.2025

MOHD. SHABIR (DECEASED) THROUGH LRS & ORS

..Petitioners

Versus

GRAM PANCHAYAT OF VILLAGE BARKATPURA (JAFRABAD)

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Arzoo Modi, Advocate
for Mohd. Yousaf, Advocate
for the petitioners.

ANIL KSHETARPAL, J(Oral)

1. The petitioners herein claim to be legal representative of the plaintiff, who filed suit for permanent prohibitory injunction restraining the defendant from forcibly and illegally dispossession the plaintiff or his agents, servants, associates from one plot measuring 150 square yards. During the pendency of the suit, plaintiff died. The petitioners namely the widow and son of the plaintiff filed application to bring them on record as legal representatives, which has been dismissed by the Court on the ground that the right to sue does not survive because the relief of injunction is personal in nature.

2. This Bench has heard the learned counsel representing the petitioners at length and with her able assistance perused the paperbook.

3. Learned counsel for the petitioners while relying upon the judgment passed in **CR-1881-2013, titled as "Harpreet Singh Vs. Shiv Dev Pal Kaur"**, decided on 20.03.2013, contends that even in an injunction suit



with regard to possession of immovable property, the right to sue will survive because possessory rights are also heritable.

4. This Court has considered the submissions of learned counsel for the petitioners.

5. In fact, the aforesaid issue is no longer *res integra* in view of the judgment passed in **Harpreet Singh's case (supra)**.

6. Para 3 and 4 of the judgment reads as under:-

“3. In this case, the suit has been filed by the husband of the applicants for injunction on his assertion of possession in the property. This claim is denied by the defendant, who is the brother, who claims that he had purchased the property from his mother and he is actually in possession. A possessory right in relation to immovable property is a tangible right that always survives. If the husband was therefore claiming that he was in actual physical possession of the property and he was seeking to fend off obstructions and disturbances from the defendant, the same right could be pursued by the widow also. It is not very clear from the judgment in Devinder Singh (supra), the nature of suit and whether any tangible right to immovable property was asserted or not. I am not able to therefore refer to the judgment as laying down any general proposition that a suit for injunction cannot survive to a legal representatives.

4. The relief of injunction is in the nature of a specific relief and set out through elaborate provisions in Chapter-VII, Part- III of the Specific Relief Act. The said part comprises of the principles of injunction to be granted generally, the nature of injunction as temporary, perpetual and also the types of injunction that include mandatory injunction. It also provides specific instances when damages could be claimed in lieu of or in addition to injunction. A provision for damages is certainly a right that could survive if it is not in the nature of the excepted provisions under Section 306 of the Indian Succession Act, referred to above.”

7. For the reasons recorded in the judgment passed in **Harpreet Singh's (supra)**, the present revision petition is allowed and impugned order passed by the Court on 29.04.2022, is set aside.



8. The suit filed by the plaintiff is restored to its original number and the trial Court is directed to proceed with the suit after informing the defendant.

May 27th, 2025

Ayub

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*