

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

CR No.2758 of 2018

Date of decision: 30th April, 2018

Krishan Singh Yadav & others

... Petitioners

Versus

Municipal Committee Kanina & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Aditya Yadav, Advocate for the petitioner.

FATEH DEEP SINGH, J.

The brief facts that are necessitated in this civil revision filed by the petitioner Krishan Singh Yadav and three others against the order dated 14.02.2018 of the Court of learned Civil Judge (Sr. Division), Kanina are to the effect that a club under the name and style of 'Neta Ji Memorial Club' (in short, 'the Club') came up on the premises of Municipal Committee, Kanina (for short, 'the Committee') and claimed that being a public society is carrying on public activities for social welfare. The stand of the defendant Committee is that the property is their ownership and has constructed buildings thereon and a part of which was lying vacant and at no point of time any part of this property was ever given to the revisionist Club and they have no concern with the same and rather proceedings under the law are being undertaken and that the present suit has been filed contrary to the statutory requirements when possession of the same has already been delivered to the Committee. The

Court of learned Additional Civil Judge (Senior Division) through orders dated 14.02.2018 while partly allowing the application under Order 39 Rules 1 & 2 CPC read with Section 151 CPC held that the defendants should spare one room for the plaintiffs for continuing their activities, against which an appeal was filed and the Court of learned Additional Sessions Judge, Narnaul through impugned orders dated 12.03.2018 had stayed the operation of the orders of the Court below. It is against this, challenge is being laid before this Court by the plaintiffs.

Appreciating the submissions, it is own stand of the revisionist Club that the property in question vests with the Committee and the learned counsel to the very specific query of the Court could not show any document of allotment or handing over of possession legitimately to the revisionist Club nor could any document be shown that they happened to be in legitimate possession of the same over a period of time. Learned Additional Sessions Judge had stayed operation of the order so passed by the Court below by allowing status quo qua the Committee when the own stand of learned counsel for the revisionist is that the Club has since been dispossessed may be illegally or against the norms of law, is a question that would be determined only on merits when the parties lead their evidence. Since the Club admittedly is out of possession as on date, no fault can be found with the impugned order and the learned Additional Civil Judge (Senior Division) has rather tried to issue mandatory injunction when a suit purely for permanent injunction has been filed and there is no specific allegation that during the pendency

of the suit, revisionist has been dispossessed by the respondents, certainly is a wrong appreciation and the Court below has rightly in the impugned findings, ordered stay of orders, else the property which vests in public body may be threatened to be taken over by such Clubs which are solicited privately by individuals so claiming to be guardians of the society. There is no illegality in the findings of the Court below and thus, the revision being without any merit stands dismissed.

(FATEH DEEP SINGH)
JUDGE

April 30, 2018

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No