

In the Court of Ankita Gupta,  
Civil Judge(Jr.Division), Fatehgarh Sahib,  
(UID No.PB0524).

Civil Suit No.456 of 2020  
Date of institution: 18.07.2020  
Date of Order: 02.09.2022.  
Next date of hearing: 28.10.2022.

Balbir Singh Vs. Balbir Singh  
(Suit for permanent injunction)

(Application under Order 39 Rules 1 & 2 CPC)

Present: Sh.PC Joshi, Advocate, for plaintiff.  
Sh.MPS Batra, Advocate, for defendant.

This Order of mine shall dispose of an application under Order 39 Rules 1 & 2 CPC filed by the plaintiff.

2. The plaintiff has filed the present suit seeking injunction against the defendant from interfering in the peaceful possession of the plaintiff over the shop/iorn khokha. It is the case of the plaintiff that the shop/iorn khokha at point X has been installed in Khasra No.49 which is Gair Mumkin School and the plaintiff is paying rent at the rate of Rs.100/- per month to the school authorities. Now the defendant is interfering into the use of the same and therefore he be restrained from doing so.

3. To the contrary, the Ld.counsel for the defendant argued that the Khasra No.49 is reserved for Gair Mumkin School which is under the ownership of Gram Panchayat. The plaintiff has no right or concern with the same. Neither his name reflects as Gair Marusi in possession over the said property. Therefore, he payed for

dismissal of the application.

4. This Court has heard the Learned counsel for the parties and have gone through the file.

5. The plaintiff claims that he has shop/iorn khokha in the school and he is paying rent of the same to the school authorities. It is worth noting that the school has not been made a party in the present suit by whose authorities the plaintiff is running the alleged shop/iorn khokha. It is also worth noting that the property in dispute as per Jamabandi is a Gair Mumkin School, which is under the ownership of Gram Panchayat and the plaintiff is no where shown in possession of the same. However, it is also worth considering that the plaintiff could not produce any document in the form of rent deed to show how and when he has taken possession of the shop/iorn khokha. It is worth noting that the plaintiff has placed on record photocopies of two receipts of the year 2002 and 2004 showing the payment of rent, but the same are photocopies and cannot be relied upon as such. Further the receipts pertained to the year 2002 and 2004. There is no document on record to show the plaintiff is in legal possession of the property claimed by him and he has the authority to run the shop as per law. In such circumstances, there is no prima facie case or balance of convenience in favour of the plaintiff and as such the present application stands **dismissed**.

6. Any observations made aforesaid are specifically for the decision of the application and shall not have any bearing on the merits of the main suit.

Pronounced:  
02.09.2022.  
(Sanjeev Kumar)  
(Dictated directly)

(Ankita Gupta)  
Civil Judge(Jr.Division),  
Fatehgarh Sahib,  
UID No.PB0524.

