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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18877-2025
Date of decision: 10.09.2025

JASDEV SINGH KOCHHAR AND ANOTHER

...Petitioner(s)

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Amar Vivek Aggarwal, Advocate
for the petitioners.

Mr. Amit Kumar Goyal, Addl. A.G, Punjab.

Mr. C. S. Bakhshi, Advocate
for respondents No.5 to 7.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing a judicial inquiry into the issue of illegal dispossession of petitioners from their business operations and smooth functioning of petitioners and running operations at the entire leased premises, namely, Sunshine Garden village Chatt, Zirakpur, Patiala Road SAS Nagar, Mohali, Punjab and striking down the action of official respondents in effecting illegal dispossession of petitioners therefrom through police help in collusion with the private respondents and also to direct immediate restoration of possession and putting the petitioners in the physical possession of the premises as before, which was



taken away forcibly with the help of police. Another prayer made by the petitioners is with regard to issuance of a writ in the nature of *mandamus*, seeking appropriate directions to hold the official respondents and other police officials guilty and responsible for violating the rights of the petitioners and to declare the action of the official respondents and other higher officials as illegal and arbitrary as they have acted beyond their statutory powers and have divested the petitioners from lawful possession of the aforesaid premises, with a further prayer to direct the official respondents to pay exemplary compensation and damages to the petitioners to the tune of Rs.5 crores.

2. In brief, the petitioners have made the following prayers in the present petition:-

- (i) A direction to conduct a judicial inquiry into the issue of illegal dispossession of petitioners from the premises.
- (ii) Restoration of possession of the premises of the petitioners.
- (iii) Initiation of appropriate action against the official respondents and other police officials.
- (iv) Grant of exemplary compensation to the petitioners.

3. Mr. Amar Vivek Aggarwal, learned counsel for the petitioners submitted that it is a case where respondents No.5 to 7 are the owners of a commercial premises situated at Zirakpur and they had entered into a commercial deal with the petitioners for the purpose of running a marriage palace. He further submitted that the entire commercial communications started from the year 2016, regarding which various documents have been attached along with the present petition from Annexure P-1 to Annexure P-6, which



contains various e-mails, communications, statement of accounts etc. to show that commercial dealings took place between the petitioners and respondents No.5 to 7 for the purpose of setting up a marriage palace. He further submitted that thereafter vide Annexure P-10, a rent deed was executed on 03.02.2021 for handing over the office space and subsequently, another rent deed was executed vide Annexure P-12 on 01.06.2022 pertaining to the entire premises of the marriage palace so that the marriage palace can be run by the petitioners. He further submitted that various documents have been attached with the present petition to show that bookings were also made by the petitioners with regard to the commencement of the business activity.

4. Learned counsel for the petitioners further submitted that respondents No.5 to 7 for the reasons best known to them started interfering in the affairs of the petitioners and raised various disputes, although the petitioners had already started taking bookings and undertaking commercial activities and in this regard, rather police was also called on 12.05.2025, regarding which photographs of the Police Control Room vehicle are also attached along with the present petition. He submitted that several complaints were made to the police authorities at the highest level, which have been attached along with the present petition as Annexure P-27 but no action was taken by the police. He further submitted that respondents No.5 to 7 in connivance with local police officials took the possession of the aforesaid premises illegally and in this way, huge loss has been caused to the petitioners. He further submitted that not only this, some expensive material which was leased out to the petitioners and was kept in the premises of the aforesaid marriage palace was taken away by



respondents No.5 to 7 with the help of police and the same is evident from the photographs attached along with the present petition showing that the vehicle was loaded and the police was also present.

5. Learned counsel for the petitioners further submitted that due to wrongful action on the part of respondents No.5 to 7, the petitioners filed a Civil Suit No.406 of 2025 for permanent injunction restraining the defendants, who are respondents No.5 to 7 in the present petition, from interfering in the peaceful possession and running of the business of the plaintiffs/petitioners in the aforesaid premises and also for permanent injunction restraining the defendants/respondents No.5 to 7 from unlawfully evicting the plaintiffs/petitioners from the aforesaid property located at Zirakpur, with a further prayer for permanent injunction restraining the defendants/respondents No.5 to 7 from selling, alienating, letting out, mortgaging, disposing of the aforesaid property. Alongwith the plaint, the petitioners filed an application under Order XXXIX Rules 1 and 2 read with Section 151 of CPC seeking ad-interim injunction. However, on 23.04.2025, the learned Civil Judge (Junior Division), Dera Bassi did not grant any ad-interim injunction but issued notice of the suit as well as stay application to the defendants/respondents No.5 to 7. He further submitted that the aforesaid order dated 23.04.2025 was assailed by the petitioners by filing an appeal before the learned Additional District Judge, SAS Nagar, Mohali, who vide order dated 29.04.2025 (at page No.289 of the paper-book) directed maintenance of status quo regarding possession of the disputed property. He further submitted that thereafter, the aforesaid appeal was finally decided by the learned Additional District Judge, SAS Nagar, Mohali on



07.05.2025 (at page No.299 of the paper-book) and the same was dismissed and in this way, the status quo order was also not operative since the appeal itself was dismissed. He submitted that the petitioners did not assail the aforesaid order and therefore, the same attained finality and subsequently, the aforesaid suit was withdrawn by the petitioners.

6. Mr. Aggarwal further submitted that thereafter, another Civil Suit was filed by the petitioners under Section 6 of the Specific Relief Act, 1963 (at page No.247 of the paper-book), seeking issuance of a direction to the defendants/respondents No.5 to 7 to immediately hand over the peaceful and vacant possession of the whole of the suit property in which the defendants/respondents No.5 to 7 have intruded on 27.04.2025 and the possession of which has illegally and forcibly been taken away from the plaintiffs/petitioners, with a further prayer seeking a decree for mandatory injunction directing the defendants/respondents No.5 to 7 to restore the status quo ante as existed before unlawful dispossession and also for seeking a decree for mandatory injunction directing the defendants/respondents No.5 to 7 to return all the movable and immovable assets, articles and business inventory of the plaintiffs/petitioners which was unlawfully taken away from the suit premises. A further prayer was made seeking a decree for declaration to the effect that the plaintiffs/petitioners are in settled and continuous possession of the suit property. An application under Order XXXIX Rules 1 and 2 read with Section 151 of CPC was also filed along with the aforesaid plaint but no interim order has been passed in the aforesaid application till date and the aforesaid Civil Suit is still pending



before the learned Civil Judge (Junior Division), Dera Bassi, SAS Nagar, Mohali.

7. Learned counsel for the petitioners submitted that the commercial dealings between the petitioners and respondents No.5 to 7, who are the owners of the aforesaid property, started in the year 2016 and the petitioners invested a huge amount of money in the marriage palace and the business was scheduled to start in the year 2024 but a dispute arose between the parties and respondents No.5 to 7 with the help of police forcibly took possession of the aforesaid premises and took away the valuables and therefore, considering the conduct of respondents No.5 to 7 and the police officials, who connived with them, the present petition has been filed seeking a direction for taking action against the police officials and also for seeking restoration of the possession of the premises apart from seeking exemplary compensation.

8. Learned counsel for the petitioners on the issue of maintainability of the present petition referred to a judgment passed by Delhi High Court in **Anju Devi versus Commissioner of Police and others, 1994 SCC Online Del 334** and submitted that although it was a case of a family dispute and allegedly the daughter-in-law was displaced but the Delhi High Court exercised its jurisdiction under Article 226 of the Constitution of India and restored possession of the house in exceptional circumstances. He further referred to a judgment passed by Hon'ble Supreme Court in **Hari Krishna Mandir Trust versus State of Maharashtra, 2020 (9) SCC 356** and submitted that the High Court in exercise of its powers under Article 226 of the Constitution of India has a power to issue a writ in the nature of *mandamus* and is also duty bound to



exercise such power where the Government or public authority has failed to exercise or has wrongly exercised discretion conferred upon it by a Statute, or a rule, or a policy decision of the Government or has exercised such discretion in a *mala fide* manner, or on irrelevant consideration and in appropriate cases, in order to prevent injustice, such directions can always be issued. He submitted that although the aforesaid case was pertaining to a dispute between the Municipal Corporation and a Trust with regard to some land but the proposition of law laid down by Hon'ble Supreme Court in the aforesaid judgment would apply equally in the present case as well and therefore, the present petition is maintainable before this Court.

9. On the other hand, Mr. Amit Kumar Goyal, Addl. A.G, Punjab submitted that he has received an advance copy of the present petition and has also sought instructions in the present case to state that in the present case, there is nothing on the record to show that respondents No.5 to 7 have forcefully taken possession of the property in question with the help of police. He further submitted that the photographs which have been attached along with the present petition showing the presence of some police officials along with Police Control Room vehicle cannot be of any help to the petitioners because nothing can be inferred from the aforesaid photographs unless there is any other substantial evidence to prove unlawful intervention by the police. He also submitted that the matter is *subjudice* before the learned Civil Judge (Junior Division), Dera Bassi, SAS Nagar, Mohali on the basis of a Civil Suit and an injunction application was filed by the petitioners on the same subject matter and same cause of action and therefore, the present petition itself is not maintainable.



10. Mr. C. S. Bakhshi, learned counsel for respondents No.5 to 7 submitted that he has also received an advance copy of the present petition and has also sought instructions. He submitted that it is a case where the present petition which has been filed under Articles 226/227 of the Constitution of India is not maintainable. While elaborating his submissions, he submitted that although there were commercial transactions which took place between the petitioners and respondents No.5 to 7, who are the owners of the premises and are senior citizens, for the purpose of entering into a commercial business of marriage palace but the petitioners have misrepresented before this Court by stating that the premises were leased out to them on rent for the purpose of commencement of business of marriage palace, whereas the factual position was that the petitioners are caterers and their role was only to a limited extent of catering and for that, commercial transactions took place between the parties. He further submitted that when a dispute arose between the parties, respondents No.5 to 7 tried to usurp the property by trying to unlawfully take the possession of the same and by projecting that it was for the management of the entire premises for running the marriage palace.

11. In this regard, learned counsel for respondents No.5 to 7 referred to the two rent deeds which have been attached by the petitioners along with the present petition as Annexure P-10 and Annexure P-12 and submitted that both the aforesaid rent deeds are forged and fabricated documents and were never executed by respondents No.5 to 7. To further substantiate his arguments, he submitted that the aforesaid rent deeds are shown to be notarized but so far as the rent deed pertaining to the entire premises (Annexure P-12) is concerned, an



inquiry was conducted by the Superintendent of Police (Rural), Mohali as to whether the same was actually notarized by a Notary or not and it has come on the record of the inquiry that the Notary made a statement that he never notarized the aforesaid rent deed. Learned counsel for respondents No.5 to 7 to further substantiate his arguments submitted that when the first Civil Suit i.e. Civil Suit No.406 of 2025 was filed by the petitioners regarding which the interim relief was declined by the learned Civil Judge (Junior Division), Dera Bassi vide order dated 23.04.2025 and an appeal filed against the aforesaid order dated 23.04.2025 was also dismissed, as so submitted by the learned counsel for the petitioners, the petitioners did not attach the plaint of that suit. He has referred to the plaint which was filed by the petitioners, wherein in para No.11 of the plaint, the petitioners have so categorically averred that they have insisted on executing a formal written lease deed/agreement, however the defendants/respondents No.5 to 7 relying upon the long-standing association with the plaintiffs/petitioners since 2007 verbally assured the plaintiffs/petitioners that the plaintiffs' lease as well as the possession over the leased premises would stay uninterrupted and continuous. A copy of plaint of the aforesaid Civil Suit No.406 of 2025 as so supplied by the learned counsel for respondents No.5 to 7 is taken on record as Mark-'X'. Para No.11 of the plaint as referred to by the learned counsel for respondents No.5 to 7 is reproduced as under:-

“11. That the plaintiffs insisted on executing a formal written lease deed/agreement, however the defendants, relying upon the long-standing association with the plaintiffs/petitioners since 2007, verbally assured the



plaintiffs that the plaintiffs' lease as well as the possession over the leased premises would stay uninterrupted and continuous."

12. Mr. Bakhshi further submitted that the aforesaid Civil Suit was filed by the petitioners on 21.04.2025 and the rent deeds which has been attached by the petitioners as Annexure P-10 and Annexure P-12 are of much prior date i.e. of the years 2021 and 2022. He further submitted that in case such rent deeds were in existence then there was no occasion for the petitioners to have so averred in the plaint that the plaintiffs had insisted on executing a formal written lease deed/agreement but the defendants were relying upon the long-standing association and therefore, it is a case where no such rent deeds were executed and the documents which have been attached by the petitioners as Annexure P-10 and Annexure P-12 were false and fabricated documents.

13. Learned counsel for respondents No.5 to 7 also referred to the order dated 07.05.2025 passed by the learned Additional District Judge, SAS Nagar, Mohali, whereby the appeal filed by the petitioners was dismissed by recording a finding of fact that it is evident that there is no evidence on record that the possession of the entire premises was given to the plaintiffs/petitioners by the defendants/respondents No.5 to 7. The relevant portion of the aforesaid findings of fact by the learned Additional District Judge, SAS Nagar, Mohali (at page No.308 of the paper-book) is reproduced as under:-

"In view of the detailed discussions above, it is evident that there is no evidence on record that the possession of the entire premises was given to appellants/plaintiffs by the respondents/defendants. Even the documents placed on record today are of no help to the



appellants because there is no document on record which shows that they were given possession of the entire premises as tenants or lessee's. The relief of injunction is a discretionary and equitable relief and party who seeks equity must come with clean hands.

Accordingly, appeal stands dismissed with costs being bereft of any merit and the status quo order dated 29.04.2025 stands vacated.”

14. Learned counsel for respondents No.5 to 7 further submitted that in this way, there is a judicial observation by the learned Additional District Judge, SAS Nagar, Mohali that there was no evidence that the possession of the entire premises was given to the petitioners and that was the reason as to why interim relief was declined to the petitioners. He further submitted that the present petition is not maintainable in view of the fact that the matter is *subjudice* before learned Civil Judge (Junior Division), Dera Bassi, SAS Nagar, Mohali and in this regard, he referred to the judgments passed by Hon'ble Supreme Court in **Roshina T versus Abdul Azeez K.T. and others, 2019 (2) SCC 329** and **Mohan Pandey versus Usha Rani Rajgaria, 1992 (4) SCC 61.**

15. I have heard the learned counsels for the parties.

16. Learned counsel for the petitioners and learned counsel for respondents No.5 to 7 have given the description of the facts of the case from where it can be noted that there appears to be some dispute between the petitioners and respondents No.5 to 7. Some commercial transactions took place between the parties, which are not in dispute. It was the case of the learned counsel for the petitioners that the petitioners were to start a marriage palace



business on the premises which belong to respondents No.5 to 7 and they also started with the process of taking bookings for the marriage palace after investing a huge amount but respondents No.5 to 7 have taken the possession of the premises from the petitioners illegally. However, it is the case of the learned counsel for respondents No.5 to 7 that respondents No.5 to 7 have never taken the possession of the premises illegally because the premises already stood in their own possession right from the beginning and the possession was never handed over to the petitioners and in this regard, even a judicial finding has come in the order dated 07.05.2025 passed by the learned Additional District Judge, SAS Nagar, Mohali. Reference was made by the learned counsel for the petitioners pertaining to two rent deeds i.e. Annexure P-10 and Annexure P-12, which were purportedly executed in the years 2021 and 2022, whereas reference was made by the learned counsel for respondents No.5 to 7 to the averments made by the petitioners themselves in the first Civil Suit which they filed on 21.04.2025, as reproduced above, that no such rent deed was executed and rather it was the case of the learned counsel for respondents No.5 to 7 that the aforesaid rent deeds so attached along with the present petition as Annexure P-10 and Annexure P-12 were forged and fabricated documents. In order to substantiate his plea, he also submitted that an inquiry was conducted by the police in this regard, wherein the Notary concerned stated that he had never notarized one of the aforesaid documents.

17. There are two aspects which are to be seen in the present case. Firstly, whether the subject matter involves intricate and disputed questions of fact or not and if yes, then as to whether this Court should interfere in the



exercise of its powers under Article 226 of the Constitution of India or not. Secondly, what is the effect of the two Civil Suits filed by the petitioners, out of which, one Civil Suit was dismissed as withdrawn by them on 03.07.2025 after injunction was declined by the learned Appellate Court and the second Civil Suit is still pending. This can be ascertained from the prayers which have been made in the present petition and the aforesaid two Civil Suits filed by the petitioners to compare the causes of action in the cases filed at different forums.

18. The prayers made by the petitioners in the present writ petition are reproduced as under:-

“Petition under Articles 226/227 of the Constitution of India, invoking the inherent powers and extra-ordinary jurisdiction of this Hon'ble Court for issuance of suitable Writ, Order or immediate and urgent Directions in the nature of Mandamus etc. directing and ordering a thorough Judicial Inquiry in the plenary exercise of powers vested in this Hon'ble Court under Article 226 of Constitution of India, due to illegal dispossession of Petitioners from their business operations and smooth functioning of Petitioners and running operations at the entire leased premises "Sunshine Garden" village Chatt, Zirakpur, Patiala road SAS (Mohali), Punjab, and striking down the action of official Respondents in effecting illegal dispossession of Petitioners therefrom through police help with open collusion with the private Respondents, as such directing the immediate restoration of possession and putting the Petitioners in the physical possession of the premises as before, which was taken away forcibly through police help;

And further calling upon this Hon'ble Court for issuing appropriate directions in the nature of Mandamus



*etc. holding official Respondents and other police officials guilty and responsible upon ordering due departmental and criminal proceedings against them for Respondent no. 4's illegal, biased and ill-conduct in divesting the Petitioners of their Legal and Fundamental Rights and legal possession of the premises in question in express connivance with the private Respondents and for issuing such other or further appropriate directions through a Judicial Inquiry under the supervision of this Hon'ble Court. **AND***

*Further issuing a suitable Writ, Order or Direction in the nature of Mandamus etc. declaring the action of official Respondents especially Respondent No.4 and other higher police officials as illegal and arbitrary as they have acted beyond their statutory powers vested in law and have illegally and arbitrarily divested the Petitioners from the lawful possession of premises in gross violation, infringement and contrary to the fundamental and legal rights of the Petitioners to carry on business including under Art. 19(1)(g) of the Constitution of India, and as such granting extraordinary relief of restoration of Possession of the premises during the pendency of the present Writ Petition, in exercise of plenary writ jurisdiction of this Hon'ble court, as the same falls within the public law domain remedy under the scope of Writ Jurisdiction of this Hon'ble court, due to gross, brazen and illegal infringement of the fundamental rights of the Petitioners through sheer abuse and misuse of powers by the police machinery and acting in a highhanded manner in express connivance with private Respondent Nos. 5, to 7. **AND***

Still further issuing appropriate Directions in the nature of Mandamus etc. holding liable and thus directing the official Respondents to pay exemplary compensation and



*damages to the Petitioners to the tune of Rs. 5 Crores to the Petitioners due to the aforesaid illegal action of the official Respondents in divesting Petitioners of their lawful and settle possession of the premises and illegally interfering in the Fundamental and Legal Rights of the Petitioners and thus harassing and agonizing and victimizing the Petitioners thereby. **AND***

*Still further issuing appropriate Writ, Order or Direction in the nature of Mandamus etc. saddling and imposing upon the official Respondents exemplary costs for their illegal and highhanded behaviour and conduct in dispossessing the Petitioners illegally and through gross misuse and abuse of the official position of a Police officer. **AND***

As well as for grant of any other or further relief to the Petitioners as deemed fit and proper in the facts and circumstances of the case and keeping in view the peculiar situation arising from therefrom may kindly be passed.”

19. The prayers made in the first Civil Suit filed by the petitioners for permanent injunction (Mark-‘X’) are reproduced as under:-

“Suit for permanent injunction restraining the Defendants and/or their agents, representatives, any subsequent buyer of the leased property or any part thereof, or any third party from interfering in the peaceful possession and running of the business of the Plaintiffs in Sunshine Gardens, located at Zirakpur-Patiala Road, NH-64, Village Chhatt, District SAS Nagar (Mohali), Punjab;

AND

Suit for permanent injunction restraining the Defendants and/or any subsequent buyer of the leased



property or any part thereof from unlawfully evicting the Plaintiffs from Sunshine Gardens, located at Zirakpur-Patiala Road, NH-64, Village Chhatt, District SAS Nagar (Mohali), Punjab, except with due course of law;

AND

Suit for permanent injunction restraining the Defendants from selling, alienating, letting out, mortgaging, disposing of Sunshine Gardens, located at Zirakpur-Patiala Road, NH-64, Village Chhatt, District SAS Nagar (Mohali), Punjab to any third person;

AND

For grant/ issuance of any other appropriate relief or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

20. The prayers made in the second Civil Suit filed by the petitioners under Section 6 of the Specific Relief Act, 1963, are reproduced as under:-

“Pass a Decree under Section 6 of the Specific Relief Act, 1963, by way of instant Summary Suit, directing the Defendants to immediately hand over the peaceful and vacant possession of the whole of the suit property, namely the "Marriage Palace known as 'Sunshine Gardens', situated at Zirakpur-Patiala Road, Village Chhatt, District SAS Nagar (Mohali), Punjab, including the Office Space", in which the defendants have intruded on 27-04-2025, and the possession of which has illegally and forcibly been taken over from the Plaintiffs on 12-05-2025 and 17-05-2025, respectively, albeit without Plaintiffs' consent and without following due process of law, despite- the Plaintiffs being in long-standing settled. possession and business operations



since 2016 as authorized users/lessees under the peculiar lease arrangement inter-se the parties;

AND

Pass a Decree for Mandatory Injunction directing the Defendants to restore the status quo ante as existed before the unlawful dispossession dated 27-04-2025, 12.05.2025 and the subsequent illegal acts on 17.05.2025, including but not limited to the restoration of electricity and water supply to the said premises;

AND

Further passing a Decree for Mandatory Injunction directing the Defendants to return all movable and immovable assets, articles, and business inventory of the Plaintiffs unlawfully taken from the suit premises, as detailed in the Inventory List (Annexure P-34) and as per details furnished in the plaint and evidence and material adduced by the Plaintiffs. and/or alternatively restraining the defendants from interfering in the Plaintiffs using/taking over possession of the remaining articles, furniture's and fixtures, fittings, amenities etc. lying within the premises, which have been arranged, raised and provided by the Plaintiffs with their efforts and expense;

AND

Further passing a decree for Declaration to the effect that the Plaintiffs are in settled and continuous possession of the suit property, i.e., the premises known as 'Sunshine Gardens' situated at Zirakpur-Patiala Road, Village Chatt, District SAS Nagar (Mohali), since July 2016, as lawful lessees/occupants under the knowledge, consent and approval of the Defendants, and that such possession was supported by regular payments, investments, and



operational control exercised by the Plaintiffs over the said premises.

AND

Further passing a Decree for Damages and Compensation; directing the defendants to compensate the Plaintiffs suitably upon evidence being led as upon the assessment of the proper loss of business, loss of opportunity, loss of their valuables, articles, business operations etc. the Plaintiffs have suffered huge losses and as such this Hon'ble Court be pleased to assess the same and award suitable damages and compensation as is duly worked out upon receiving proper evidence of the parties before this Hon'ble Court;

AND

Further passing a Decree for Permanent Injunction restraining the Defendants and/ or any subsequent buyer of the leased property or any part thereof from forcibly / unlawfully evicting the Plaintiffs from suit property i.e. Marriage Palace Sunshine Gardens, located at Zirakpur Patiala Road, NH-64, Village Chhatt, District SAS Nagar (Mohali), Punjab, except with due course of law;

AND

Further passing a decree for Permanent Injunction restraining the Defendants from selling, alienating, letting out, mortgaging, disposing of the suit property - Marriage Palace Sunshine Gardens, located at Zirakpur-Patiala Road, NH-64, Village Chhatt, District SAS Nagar (Mohali), Punjab to any third person, in view of overriding legal rights as lessee vested in the Plaintiffs owing to the extensive investment made by the Plaintiffs in the renovation,



refurbishing and reconstruction of Sunshine Gardens with Plaintiffs' exclusive resources;

AND

For grant/ issuance of any other appropriate relief or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case and passing any other or further order(s) which this Hon'ble Court may deem just, fit, and proper in the facts and circumstances of the case and in the interest of justice;”

21. Both the aforesaid issues involved in the present petition as aforesaid can be considered together. A perusal and comparison of the prayers made in the present petition as well as in the two Civil Suits would make it clear that the cause of action and the relief claimed are similar in nature. In the present petition, basically three prayers are made besides seeking exemplary compensation. The first prayer is to hold a judicial inquiry into the issue of illegal dispossession, second prayer is for taking action against the police officials and the third prayer is for restoration of possession. In the second Civil Suit filed by the petitioners under Section 6 of the Specific Relief Act, 1963, it is clear that same reliefs of restoration and compensation besides other prayers are being sought in the aforesaid Civil Suit as well. So far as the additional prayer which has been made in the present writ petition seeking a judicial inquiry or appropriate action against the police officials for conniving with respondents No.5 to 7 is concerned, the same would only be permissible as a part of the prayer in case the writ petition itself is maintainable.

22. The petitioners first of all filed Civil Suit for permanent injunction, in which they also filed an application for grant of interim stay, which was



declined by the learned Civil Judge (Junior Division), Dera Bassi and thereafter, on an appeal being filed, although initially status quo was granted but thereafter, on merits, the appeal was dismissed by observing that the petitioners were not able to show the possession. Thereafter, the first Civil Suit was withdrawn by the petitioners on 03.07.2025 and subsequently, the petitioners filed a second Civil Suit under Section 6 of the Specific Relief Act, 1963, of which the plaint is also attached along with the present petition (at page No.250), in which they had sought restoration of the possession.

23. So far as the judgments which have been cited by the learned counsel for the petitioners are concerned, the law with regard to maintainability of a writ petition and the exercise of powers under Article 226 of the Constitution of India is well settled. A High Court under Article 226 of the Constitution of India can always interfere in exceptional circumstances in order to prevent miscarriage of justice and to serve the interest of justice. In the judgment of Delhi High Court as referred to by the learned counsel for the petitioners in *Anju Devi's case (Supra)*, the matter was pertaining to some family dispute between the parties, wherein the daughter-in-law was stated to be ousted from the house and in that context, the Delhi High Court interfered and exercised its jurisdiction under Article 226 of the Constitution of India. A perusal of para No.13 of the aforesaid judgment would show that the Civil Suit was filed during the pendency of the writ petition, whereas in the present case, two Civil Suits were filed by the petitioners prior to the filing of the present writ petition and therefore, the aforesaid judgment of Delhi High Court is clearly distinguishable from the present case. In the second judgment referred to by the



learned counsel for the petitioners in *Hari Krishna Mandir Trust's case (Supra)*, Hon'ble Supreme Court held that in appropriate cases, orders can be passed under Article 226 of the Constitution of India, in exercise of the discretion of the Court, to prevent injustice. The aforesaid case pertained to a land dispute between a Trust and Municipal Corporation. However, in the present case, there is a commercial dispute between two private persons and therefore, the aforesaid judgment is also distinguishable from the facts and circumstances of the present case.

24. On the other hand, learned counsel for respondents No.5 to 7 also referred to the judgments passed by Hon'ble Supreme Court in *Roshina T's case (Supra)* and *Mohan Pandey's case (Supra)*, wherein it was held that when a Civil Suit involving the same cause of action is pending, then the High Court should not exercise its writ jurisdiction under Article 226 of the Constitution of India.

25. In view of the aforesaid totality of facts and circumstances, this Court is of the considered view that there are disputed questions of fact involved in the present petition. So far as the prayer seeking appropriate action against the police officials is concerned, the petitioners can always seek an appropriate remedy by filing a petition under Section 528 of BNSS, 2023 (erstwhile Section 482 Cr.P.C.) but strictly in accordance with law, if so advised. However, the basic prayer of the petitioners seeking restoration of possession cannot be considered by this Court in exercise of its powers under Article 226 of the Constitution of India. It is a case where one Civil Suit was filed by the petitioners and after the interim relief was declined by the learned



Appellate Court by making an observation that there was no evidence to show that the petitioners were in possession of the property, the said Civil Suit was withdrawn by the petitioners and thereafter, a second Civil Suit was filed by the petitioners under Section 6 of the Specific Relief Act, 1963, seeking restoration of possession, which is still pending and when an identical issue is *subjudice* before a Civil Court, a writ petition seeking same relief is not maintainable in the eyes of law.

26. In view of the aforesaid facts and circumstances, the present writ petition is hereby dismissed.

10.09.2025
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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