



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

CR-6751-2023(O&M)

Date of Decision: August 27, 2025

Kaushal Kishore

...Petitioner

Versus

Mahabir and others

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Radhe Shyam Sharma, Advocate
for the petitioner.

Mr.Sumit Sangwan, Advocate
for respondents No.1 and 2.

Mr.Rampal Verma, Advocate
for proforma respondents No.3 to 5 and 7 to 13.

Service of respondent No.6 already dispensed with.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 15.09.2023 passed by learned trial Court, whereby, an application under Order 39 Rule 1 and 2 CPC, was allowed and further also, the judgment dated 11.10.2023 passed by learned Appellate Court, thereby, affirming the aforesaid order.

For the convenience of discussion, the parties are referred to as making appearance before learned trial Court.

The essential facts, to be noticed, are that initially, Mahabir and

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Bhajan Lal-plaintiffs had filed a suit for declaration and permanent injunction, thereby, asserting themselves to be co-owners-in-possession of the land comprised in Khewat No.17 and also about plaintiff No.2 to have constructed tubewell/boring in Khasra No.15//17/1(3-10) and plaintiff No.1 to have constructed tubewell/boring in Khasra No.15//17/3(1-16) and that they are running the tubewells/borings with underground PVC pipes, after taking valid electricity connections. Besides the same, perpetual injunction was sought to restrain the defendants from interfering, in any manner, in the peaceful possession of the plaintiffs and from destroying the tubewells/borings and PVC pipes or from creating hindrance in running the tubewells/borings, as the defendants have no right or concern, over the said tubewells/borings or the suit property.

Along with the plaint, an application under Order 39 Rule 1 and 2 CPC was also filed for seeking relief of interim injunction.

In pursuance of the notice issued, the defendants made appearance and filed respective replies, wherein, they had denied about plaintiff No.2-Bhajan Lal to be the co-sharer of disputed Khewat No.17 and further also about the plaintiffs to have constructed tubewell/boring unauthorisedly. Also, it was asserted that tubewell, at present, is not in working condition and the same was being used earlier for lifting of water from one place to another place, as a result whereof, the water level of the land is lowering down. However, with the intervention of panchayat members i.e. defendants No.1 to 3 and defendants No.5 to 12, the plaintiffs stopped to lift the water and that the tubewell is not in the running condition



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as alleged.

After hearing counsel for the parties, learned trial Court vide order dated 15.09.2023 had allowed the application and directed the defendants that they are restrained from destroying the tubewells/boring and pipes PVC or from creating any hindrance in running the tubewells/borings, in any manner, till the decision of the suit.

Being aggrieved, defendant No.4-Kaushal Kishore had filed an appeal and the said appeal was also dismissed by learned Appellate Court vide judgment dated 11.10.2023.

Still not satisfied, Kaushal Kishore has filed the revision petition in hand.

Learned counsel for the parties heard.

At the very outset, it is pertinent to mention that for issuance of the interlocutory injunction, during the pendency of the case, is the matter which calls for exercise of discretion by the Court concerned. The call has to be taken by the Courts for issuance of interlocutory injunction, at the time, when the existence of legal right is asserted by the plaintiff and there is alleged contest, qua the violation of this legal right and the same, as such remains uncertain, before the Court, till the evidence adduced, is to be appraised by the Court. The purpose of interim injunction is to mitigate the risk of injustice to a person, knocking the door of the Court, during the interregnum period of resolvment of uncertainty, vis-a-vis, violation of legal right. For this, the Court ought to consider three ingredients i.e. *prima facie* case, balance of convenience and irreparable loss.



Considering the existence of these three conditions, the need for such protection has to be weighed against the corresponding need of the defendant to be protected against the injury, resulting from his having been prevented from exercising his own legal rights, for which, he could not be adequately compensated. Thus, the Courts are supposed to weigh one need against another and determine, where the balance of convenience lies.

Considering the aforesaid aspects, to be taken care of, while adjudicating on the application for interim injunction, learned trial Court has very well observed about the existence of three necessary ingredients. So far as, existing of tubewells/borings is concerned, this fact, as such, is not disputed even by the defendants. So far as, plaintiff No.2-Bhajan Lal is concerned, he asserts himself to be the co-owner in the suit land. The document is coming on record, about Bhajan Lal having taken share from Devi Singh. His name is also allegedly further reflected in the jamabandi for the year 2021-22. Thus, considering the same, it has been appropriately considered by the trial Court, about the plaintiffs to be co-owners-in-possession.

It is also very well adjudicated by learned trial Court about the tubewells to be existing as asserted by the plaintiffs. Though, in the written statement, a plea was taken about the tubewell to be not in working condition, as on account of intervention of Bhai Birdari Panchayat, but however, for this assertion, there is no material, coming on record, about any such decision taken by the panchayat to resolve the matter and also about the plaintiffs complying with the same. When nothing, as such, is

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coming on record, about the intervention of Bhai Birdari Panchayat, obviously, it has to be taken that tubewells were in working condition.

That being so, it was required, on the part of the defendants to explain, as to whether, on account of working of the tubewells, they were not able to make proper utilization of their land. But relating to the same also, there is nothing, as such, brought forth. Given the same, definitely, on account of tubewell, not being put to use, will cause irreparable injury to the plaintiffs also, if the defendants are not restrained from destroying the tubewells as well as PVC pipes or from creating hindrance in the running of the tubewells/borings.

In the given circumstances, when all the aforesaid ingredients do not stand established in favour of the defendants, they cannot be allowed to take law in their own hands and cause damage to the tubewells/borings or PVC pipes.

Considering all these aforesaid aspects, learned trial Court appropriately allowed the application under Order 39 Rule 1 and 2 CPC vide order dated 15.09.2023 and the aforesaid order has been further correctly affirmed by learned Appellate Court. As such, the impugned order and judgment warrant no interference.

Hence, the present revision petition sans merit and the same is hereby dismissed.

August 27, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No