

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 5242 of 2015

Date of decision : September 14 2015

Tarun Kumar and another

..... Petitioners

Versus

Pankaj Kapoor and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Munish Bhardwaj, Advocate
for the petitioners.

Mr. Ashok Kumar Sharma, Advocate
for the respondent No.2.

Amit Rawal, J (oral).

Learned counsel for the petitioners-plaintiffs submits that after passing of the order dated 21.8.2015 by this Court, plaintiff has already examined one witness. He further submits that in case two more opportunities are granted, evidence shall be concluded.

The present revision has arisen out of the impugned order while adjudicating of the application under Order 39 Rule 1 and 2 CPC filed at the behest of plaintiffs.

Learned counsel for the petitioners-plaintiffs submits that in case the petitioners does not succeed in seeking interim order the whole purpose would be defeated and the continuation of the suit will be a futile exercise. It would be very difficult for the petitioners to seek restitution of the property in case the interim injunction granted by this Court vide order ibid, does continue till decision of suit.

Mr. Ashok Kumar Sharma, learned counsel appearing on behalf of the respondent-bank submits that the Bank had obtained loan by mortgaging the property and the contents of

sale deed do not specify, in case of dishonour of the cheque issued by the vendee in favour of the petitioners-plaintiffs, the sale deed would be ineffective and void and therefore the action of the Bank under the The Securitisation and Reconstruction Of Financial Assests And Enforcement Of Security Interest Act, 2002 is not vitiated in law.

I have heard learned counsel for the parties and appraised the paper book.

I am of the view that since learned counsel for the petitioners-plaintiffs has already undertaken that he will conclude the evidence and has shown regard to the order dated 21.8.2015 passed by this Court by examining one witness. I intended to dispose off present revision petition by issuing directions to the trial court to permit the petitioners-plaintiffs to conclude the evidence within a period of two months, thereafter, the trial court would afford another two months time to the Bank to lead evidence in support of their evidence and shall decide the suit on the basis of evidence, much less law. The findings rendered by courts below while deciding interim application shall not come in way of petitioners-plaintiffs.

However, in the meantime, parties shall maintain status quo till the decision of the suit.

With the aforementioned observations, the revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

September 14 , 2015
archana