

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

**CR No.7818 of 2015**

**Date of decision: 20.11.2015**

**Satish**

**..... Petitioner**

**Versus**

**Telu Ram and others**

**..... Respondents**

**CORAM : HON'BLE MR.JUSTICE ARUN PALLI**

Present : Mr. Parminder Singh, Advocate for the petitioner.

**ARUN PALLI, J. (Oral)**

Vide order being assailed dated 6.4.2015, rendered by the Civil Judge (Jr. Divn.), Karnal, application moved by the petitioner-defendant/counter claimants for providing police assistance for implementation of the order dated 20.04.2014, had since been dismissed. In short, the grievance being expressed by the petitioner is that despite order dated 20.04.2014, vide which the plaintiffs were restrained from interfering in possession of the petitioner-defendant No.2. Plaintiffs were continuously interfering in their peaceful possession.

The reasons assigned by the trial Court in support of its order read as thus:-

**“From the perusal of second order dated 20.11.2014, it appears that Sh. Amit Kumar Garg, the then, Ld. Addl. Civil Judge (S.D.), Karnal had disposed off the stay application filed by the counter claimants, though, there is no specific mention to that effect. Hence, the stay application was disposed off and if the plaintiff is**

interfering in the possession of defendants/counter claimants despite the stay order by the Court, remedy for the defendants/counter claimants was to file an application under Order 39 Rules 2-A. At this stage, only by considering the application in hand, it cannot be concluded that the plaintiffs/respondents is interfering into the possession of the defendants and is violating the order of the Court for which the detail evidence is required. Ld. Counsel for the defendants/counter claimants has relied upon the judgment of Hon'ble Andhra Pradesh High Court in case titled as Myla Malla Reddi versus Natukula Koteswara Rao and others, 1992 Civil Court Cases, 575. The observations of Hon'ble Andhra Pradesh High Court are not disputed but it is observed that the judgment of Hon'ble Andhra Pradesh High Court in case Myla Malla Reddi (supra) is not applicable to the peculiar facts and circumstances of the case and in the case Myla Malla Reddi (supra), the Court had concluded that there were attempts to interfere with the petitioner possession and enjoyment but it is not so in the present case as it can be concluded at this stage that the plaintiffs are interfering into the possession of the defendants/counter claimants. Hence, the application cannot be allowed and the same is hereby dismissed. If any stay order in favour of defendants has been implemented by other party, the defendants have liberty to file the application under Section 39 Rule Rule 2-A.”

Concededly, petitioner is aggrieved on account of the disobedience and purported violation of the order of injunction dated 20.04.2014, by the respondents/plaintiffs. Indisputably, the said order was passed on an application made by the petitioner under Order 39 Rule 1 and 2 of the Code of Civil Procedure, needless to assert, the petitioner could

resort to the provision of Order 39 Rule 2-A of the Code of Civil Procedure for redressal of his grievance. Particularly, when it would have to be ascertained; whether the respondents have indeed violated the order of injunction dated 20.04.2014. Petition being devoid of merit is accordingly dismissed.

**November 20, 2015**

Manoj Bhutani

**(ARUN PALLI)  
JUDGE**