

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.8222 of 2015
Date of decision: 04.12.2015

Rakesh Kumar

... Petitioner

Versus

M/s Paramsar Rice Mills and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

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

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Vide order being assailed, dated 06.11.2015, rendered by Civil Judge (Jr. Divn.), Sunam, application moved by the petitioner-plaintiff, under Order 38 Rule 5 of the Code of Civil Procedure, had since been dismissed. The reasons recorded by the trial court in support of its order read as thus:

“...The Hon’ble Supreme Court in Raman Tech and Process Engineer Company Vs. Solanki Traders 2008(2) SC Cases 302 has held that, “The provisions of application under order 38 rule 5 CPC are drastic in nature and should not be invoked in routine.”

4. In the present case the plaintiff applicant not filed any document to support his version that the defendants no.2 & 3 are about alienate the property mentioned in the head note of the plaint.

5. In the light of the law, that the provisions of order 38 rule 5 CPC are drastic in nature and must be invoked sparingly, and facts, the application of the applicant/ plaintiff under order 38 rule 5 CPC is dismissed being without merits.”

In fact, all what is stated in para 6 of the application moved by the petitioner is *“That the defendants No.2 and 3 have threatened the plaintiff that they will alienate the property mentioned in the heading of application...”*

Ex facie, the application moved by the petitioner was extremely vague as no credible material was brought on record to show that the defendants were indeed contemplating to alienate the properties owned or possessed by them. That being so, the only and the inevitable conclusion that the trial court could arrive at was to decline the prayer made in the application.

Learned counsel for the petitioner could not point out as to how the conclusion recorded by the trial court was either contrary to the position on record or suffered from any material illegality.

No interfere is warranted in exercise of revisional jurisdiction. Petition being devoid of merit is accordingly dismissed.

December 4, 2015
Rajan

(Arun Palli)
Judge