

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

CWP No.1655 of 2015

Date of Decision.30.01.2015

Ajay Patel and others

.....Petitioners

Versus

Punjab State Bus Stand Management Company (PUNBUS) and others

.....Respondents

Present: Mr.Sanjeev Pandit, Advocate and
Mr. Balbir Kumar Saini, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. The poor shopkeepers who have to earn their livelihood are reported to be fettered by the respondents by locking up their premises in spite of order of injunction granted by Civil Court restraining the State from dispossessing them. The petitioners have already approached the Civil Court with an application under Order 39 Rule 2A CPC. The petitioners' grievance is that in spite of the application, the respondents are acting in brazen disobedience of the order of the Court.

2. Though the Court's power under Article 226 of the Constitution is wide and it is possible to make an intervention wherever there is an injustice done, if the petitioners have already adopted an action for a civil suit, which is the most appropriate forum as well, it will be grossly improper for the Court to duplicate orders of what are already available in favour of the petitioners. The order passed by the lower

judicial forum in India would obtain the same primacy and effect as order passed by the higher forums including the Supreme Court. It would make no difference that there is an order of the subordinate Court which is in force but it is being breached and if the breach continues, there cannot be a complaint against respondents in a higher forum seeking for similar type of order what has already been granted. I will make no intervention now but I will make an observation that the Court who has granted the order will be the most competent person to give enforcement of the order that has been passed. If the State is found to be in breach, the Court, needless to state, will issue appropriate punishment in the manner provided under Order 39 Rule 2A CPC.

3. I request Mr. Ashok Aggarwal, Advocate General, Punjab who is present in Court incidentally for another case to take notice on this issue and I would request the Advocate General to transmit the observations of the Court to ensure that there is no breach of the Court's order.

4. The writ petition is disposed of with the above observations. Copy of the order be issued to the Advocate General Punjab under the signatures of Special Secretary of this Bench.

(K. KANNAN)
JUDGE

January 30, 2015
Pankaj*