

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.1833 of 2016
Date of Decision: March 15, 2016

Smt.Kamla Devi

...Petitioner

Versus

Smt.Chand Kaur (since deceased) through L.Rs and others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Ashish Aggarwal, Senior Advocate with
Mr.Sanjay Vashisth, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

The petitioner-objector is aggrieved of the order dated 4.3.2016 (Annexure P-6), whereby, in an appeal filed against the rejection of her objections, the prayer for interim stay has erroneously and capriciously, much less fallaciously been declined.

Mr.Ashish Aggarwal, learned Senior Counsel assisted by Mr.Sanjay Vashisth, Advocate, appearing on behalf of the petitioner-objector submits that the erstwhile vendor had leased out the property to Hindustan Petroleum Corporation Ltd. and by virtue of the sale deed executed in the year 1974, husband of the petitioner purchased the property and was running the firm under the name and style of 'Haryana Filling Station'. There was a partnership between Om Parkash and Kailash Nath Maheshwari and thereafter vide letter dated 19.8.1982 issued by the

Hindustan Petroleum Corporation Ltd., Om Parkash was allowed to become the sole proprietor. The legal representatives of the erstwhile vendor instituted an ejectment petition against the respondents without impleading the petitioner as party and sought the ejectment vide ejectment decree dated 29.3.2012. On realising the aforementioned fact, the objections by invoking the provisions of Order 21 Rule 101 CPC were filed, but the same were summarily dismissed. Since the objections were to be treated as an independent suit and dismissal of the same would be a decree, the appeal by invoking the provisions of Order 21 Rule 103 CPC was filed, but the Lower Appellate Court, though entertained the same but has, as stated above, did not assign any reasons for rejection of the application, whereas the respondent-decree holders have taken the assistance of the police to seek the possession.

I am of the view that since the appeal is pending adjudication and the same has to be decided as per the provisions of Order 21 Rule 103 CPC, the Lower Appellate Court ought to have assigned the reasons in declining the interim stay. Since the impugned order is lacking reasons, therefore, the same is not sustainable in the eyes of law and accordingly the same is set-aside to the extent of declining the stay.

The Court, while dealing with such matters, is expected to give reasons in declining the application, failing which a valuable right, which is sought to be infringed, would be taken away and the same should not be allowed to go unnoticed, much less under the nose of the Court.

The revision petition is disposed of with direction to the Lower Appellate Court to decide the application for ad-interim stay filed along with the appeal in accordance with law after giving notice to the other party

and taking into consideration all the averments made in the appeal.

Till then, the execution proceedings, much less dispossession in pursuance to the ejectment order shall remain stayed.

It is expected that the Objecting Court shall decide the ad interim application as expeditiously as possible.

Copy of the order be given *dasti* to the learned counsel for the petitioner under the signatures of the Reader of this Court owing to the fact that it has been stated during the course of hearing that the respondents have almost reached the spot in taking physical possession.

With the aforementioned observations, the revision stands disposed of.

March 15, 2016
ramesh

(AMIT RAWAL)
JUDGE