

In the High Court of Punjab and Haryana at Chandigarh

228

CR No. 1957 of 2015 (O&M)

Date of decision: 21.10.2016

Dharam Pal

.....petitioner

Versus

Raj Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.R.S.Manhas, Advocate,
for the petitioner.

Raj Mohan Singh, J.(oral)

As per office report dated 29.6.2015, respondents were duly served, but thereafter none appeared on their behalf.

CM Nos. 3208-09 of 2016

For the reasons mentioned in the applications, the accompanying documents are taken on record.

Applications stand disposed of.

CR No. 1957 of 2015

Petitioner has assailed order dated 10.11.2014 passed by Additional District Judge, Pathankot, whereby, order dated 11.2.2013 passed by Civil Judge (Sr.Divn.) Pathankot was set aside and application under Order 39 Rules 1 and 2 CPC filed by the plaintiff-petitioner was dismissed.

In a suit for permanent injunction, trial Court granted injunction in favour of the plaintiff-petitioner on the premise that internet tower of Vodafone company was installed by the plaintiff on the second floor of his house. Factum of such installation was admitted by the defendants. The said installation was claimed to be in violation to the Municipality laws by the defendants, but in the absence of Municipal Committee being party to the suit, it was observed by the trial Court that the defendants cannot take law in their hands particularly when a complaint was filed by them before the competent court. In view of the facts and circumstances of the case, it was observed by the trial Court that a prima facie case existed in favour of the plaintiff for grant of temporary injunction. Resultantly, defendants were restrained from interfering in the functioning of the tower during pendency of the suit.

Lower Appellate Court reversed the order passed by the trial Court on the premise that the permission from the Municipal Council, Sujampur was not obtained by the plaintiff, therefore, plaintiff had no prima facie case for grant of temporary injunction.

Learned counsel for the petitioner has submitted that for the threat perception at the hands of the defendants, the suit in question came to be filed. No relief was claimed against the Municipal Council. Even after passing of impugned orders,

necessary permission has already been granted by the Municipal Council, Sujanpur against the payment of requisite dues.

In view of aforesaid, I am of the considered view that the impugned order dated 10.11.2014 passed by the Lower Appellate Court is not sustainable in the eyes of law. Resultantly, the same is set aside.

Revision petition is disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

October 21, 2016

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Whether Reasoned/Speaking Yes/No
Whether Reportable Yes/No