

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 3342 of 2016
Date of decision : May 10, 2016

Amit Chand and others

..... Petitioners

Versus

Mohan Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Jagdish Manchanda, Advocate
for the petitioners.

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?

Amit Rawal, J (oral).

The petitioners-defendants are aggrieved of the impugned order dated 5.5.2016 whereby they have denied right to file reply to the application under Order 39 Rule 1 and 2 CPC.

Learned counsel for the petitioners submits that the respondents have filed a suit seeking permanent injunction and mandatory injunction which was declined. The suit aforementioned was filed on 14.3.2016. The petitioners-defendants appeared on 17.3.2016. The matter was adjourned to file written statement on 18.3.2016. The plaintiffs insisted for ad interim injunction i.e. status

quo which was declined and the matter was taken in appeal before the lower appellate court by filing civil Miscellaneous application which was listed and on 4.4.2016 the matter has been remanded back to the trial court and the next date before the trial court is 21.4.2016. On 21.4.2016, the case was adjourned for filing written statement and reply to the application was filed, copy of which has been annexed as Annexure P-3. However, the case was adjourned to 5.5.2016. On 5.5.2016, the opportunity to file reply has been taken away.

He further submits that on the next adjourned date i.e. 6.5.2016, the application has been argued and the matter has been adjourned to 11.5.2016.

He further submits that order under haste could not have been passed. The petitioners-defendants have been deprived of the right to contest the application for placing on record the material evidence in order to prima facie enable the court to form an opinion that ingredients under Order 39 Rule 1 and 2 CPC have not been complied with, thus urges this Court to grant one opportunity to file reply.

I have heard learned counsel for the petitioner, appraised the paper book and of the view that in order to prevent mis-carriage of justice and advance justice, I deem it appropriate to grant one opportunity to the petitioners to file reply in the application under Order 39 Rule 1 and 2. The trial court ought not to have taken away the right.

In view of the aforementioned facts, the petitioners

are granted one opportunity to file reply to the ad interim application and written statement by 11.5.2016 subject to costs of ₹5,000/-

In case the reply and written statement is filed, the trial court shall hear the arguments on the basis of the reply and pass orders in accordance with law.

Copy of the order be given under the signatures of the Reader attached to the Bench.

(AMIT RAWAL)
JUDGE

May 10 , 2016
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