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

**CR-4583-2014[O&M]**

**Date of Decision : February 17<sup>th</sup>, 2016**

Jagmohan Singh

.... Petitioner

Versus

Sharanjit Kaur and another

.... Respondent

**CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.**

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.D.K.Bhatti, Advocate,  
for the petitioner.

Ms. Sharanjit Kaur, respondent No.1 in person.

**SHEKHER DHAWAN, J.**

Present revision petition under Article 227 of the Constitution of India for setting aside order dated 03.07.2014 passed by learned District Judge, Shaheed Bhagat Singh Nagar in appeal bearing No. RCA/68/14 whereby a condition was imposed regarding furnishing indemnity bond of Rs.50 lacs with one surety while passing status quo order with regard to the property in question.

2. Learned counsel for the petitioner submitted that the main suit for possession by way of specific performance of agreement was filed which was decided on 06.05.2014 by Civil Judge (Senior Division), Shaheed Bhagat Singh Nagar. The petitioner was granted alternative relief of Rs.10

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lacs along with cost and interests at the rate of 12% per annum from the date of execution of the agreement to sell, till the date of filing of the suit and interest at the rate of 9% per annum from the date of filing of the suit till the passing of the judgment and interest at the rate of 6% per annum from the date of passing of the judgment till its actual realization. Learned counsel for the petitioner submitted that if the entire amount is calculated on the above lines, it does not exceed Rs.25 lacs whereas the petitioner has been asked to furnish indemnity bond of Rs.50 lacs with one surety. He, thus, submitted that the condition imposed by learned District Judge vide impugned order is unreasonable and the order be set aside.

3. Respondent No.1, who is appearing in person, while arguing on this point submitted that the order passed by learned District Judge is perfectly valid and legal and the revision petition be dismissed.

4. Having considered the submissions made by learned counsel for the parties, this Court is of the view that the Court below has taken a reasonable view while considering all the relevant facts of the case in view of the fact that the present petitioner had filed a suit for specific performance of agreement of sale dated 04.02.2003/14.01.2005 and the Court of first instance decreed the suit but awarded alternative relief of Rs.10 lacs with cost and interest. Plaintiff preferred an appeal before learned District Judge and while admitting the appeal and deciding application under Order 39 Rule 1 & 2 CPC, learned District Judge directed the respondents-defendants to maintain status quo regarding possession and title over the suit properties till the next date of hearing. Present petitioner is not aggrieved of this part of the order, however, he is aggrieved of the order to the extent that he has been asked to furnish indemnity bond

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to the tune of Rs.50 lacs which is at least on much higher side even if the appeal is decided against the petitioner.

5. As per view taken by Hon'ble Supreme Court in **Mahadeo Savlaram Shelke Vs. Puna Municipal Corpn., 1995(2) JT 504**, while deciding the application under Order 39 Rule 1 & 2, the Court is to maintain balance of interest of both the parties and the learned District Judge has rightly passed the order asking the present petitioner to furnish indemnity bond to the tune of Rs.50 lacs. This Court says so because while exercising the powers in such like cases, the Court has to adopt the procedure of calling upon the party seeking relief of injunction that in the event of his failure in the suit to obtain the relief asked for in the suit, he must adequately compensate the other party for the loss caused due to the order of injunction granted in his favour. Even otherwise, the Court while exercising its equity jurisdiction in granting injunction as also jurisdiction and power to grant adequate compensation to mitigate the damages caused to the other party by grant of injunction restraining to proceed with the execution of the work etc. which was restrained by injunction order issued by the Court. The inherent jurisdiction lies with the Court to mitigate the damage suffered by the non-applicant also while deciding the injunction application. The Court below has rightly taken all these facts into consideration while passing the order under challenge.

6. The present revision petition stands dismissed being devoid of any merit.

**(SHEKHER DHAWAN)**  
**JUDGE**

**February 17<sup>th</sup>, 2016**  
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