

CR No. 5036 of 2016 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 5036 of 2016 (O&M)

Date of Decision: August 08, 2016

Mohd. Saful & others

...Petitioners

Versus

Haryana Urban Development Authority & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. S.K. Tripathi, Advocate
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (Oral):

CM No.15544-CII of 2016

Prayer in this application is for grant of exemption from filing
certified copies of Annexures P-1 to P-5.

Application is allowed, subject to all just exceptions.

CR No. 5036 of 2016

Challenge in this revision petition is to the order dated
11.07.2016 (Annexure P-7), whereby, an appeal preferred by the
respondent-Haryana Urban Development Authority (hereinafter referred to
as 'HUDA') against an order dated 15.12.2015 (Annexure P-3), whereby the
blanket *ad interim* injunction was granted by the Civil Judge (Junior
Division), Panchkula, has been modified to the extent that the defendants
are restrained from dispossessing the petitioners from the suit land/sites
except in due course of law.

It is the contention of the learned counsel for the petitioners

that the petitioners have filed a civil suit and in that suit, prayer has been made for *ad interim* injunction restraining the respondents from dispossessing the petitioners from the suit land/sites. It was pleaded that the petitioners are paying rent to the respondent-HUDA and therefore, they are not in illegal possession of the land/sites. The trial Court has rightly granted the injunction vide order dated 15.12.2015 restraining the respondents from dispossessing the petitioners from the land/sites. He contends that since the petitioners are not in illegal possession of the land and they are paying rent/lease amount regularly, the order dated 15.12.2015 passed by the Civil Judge (Junior Division), Panchkula, did not call for any interference and has wrongly been modified by the Appellate Court vide its impugned order dated 11.07.2016. He, thus, prays for setting aside the impugned order and restoring the order dated 15.12.2015 passed by the Civil Judge (Junior Division), Panchkula.

3. I have considered the submissions made by the counsel for the petitioners and with his able assistance, have gone through the impugned order.

4. Learned trial Court while granting the injunction to the extent that the petitioners will not be dispossessed from the suit land/sites is justified, however, the same cannot be passed in a blanket manner. The Appellate Court has rightly granted liberty to the respondents to proceed against the petitioners in accordance with law as the issue with regard to the possession being of the petitioners legal or illegal, is to be decided as yet.

They cannot be granted a blanket order of stay of dispossession especially

when specific stand of the respondents is that the petitioners are in illegal possession of the suit land/sites. If that be so, the impugned order before the Appellate Court i.e. the order dated 15.12.2015 passed by the Civil Judge (Junior Division), Panchkula, has rightly been modified to the extent that the petitioners can be dispossessed by the respondents in due course of law and not by using force or without giving them an opportunity of being heard. The order passed by the Appellate Authority being in accordance with law, does not call for any interference by this Court.

5. The revision petition is devoid of any merit so the same stands dismissed.

August 08, 2016
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No