

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

C.R. No.5057 of 2016 (O&M)

Date of Decision.09.08.2016

Charan Preet Singh

.....Petitioner

Vs.

Hindustan Petroleum Corporation Limited

.....Respondent

Present: Mr. R.P.S. Cheema, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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?

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AMIT RAWAL J. (ORAL)

The petitioner-defendant is aggrieved of the order under challenge whereby in a suit for permanent injunction/mandatory injunction and ad interim injunction qua alienation, he has been restrained from taking forcible possession of the suit plot and also from alienating the same, during the pendency of the suit and also directed to demolish the wall erected in the suit property whereby the entry of vehicles on the petrol pump is restrained within a period of one month from the date of payment/tender of rent and further direction to the Hindustan Petroleum to pay the arrears of rent till date to the respondent with interest @9% within a period of one month.

Mr. RPS Cheema, learned counsel for the petitioner-defendant submits that the plaintiff had taken the suit land on lease vide lease deed dated 27.09.2003 to install, erect and maintain in the suit property underground tanks, delivery of pumps etc. for running a petrol pump. The period of lease was 30 years commencing from 01.10.2003. The petitioner

was the lessee of the Hindustan Petroleum Corporation and thereafter, they let the dealership to another person, who could not run the dealership and the petitioner took back the possession from the above-said person and therefore, the injunction so granted, could not have been granted. The plaintiff-Corporation has failed to make out a case within the essential ingredients of Order 39 Rule 1 and 2 CPC. There is categorical pleading in paragraph 9 of the plaint with regard to the erection of the wall for blocking the passage of vehicles. Both the Courts below have not noticed the aforementioned fact, yet granted the injunction as noticed above, thus, urges this Court for setting aside of the impugned orders.

I have heard learned counsel for the petitioner and appraised the paper book. The execution of the lease deed is admitted. In case, the petitioner has determined the lease, he cannot take the forcible possession as apprehended by the plaintiff. Every lessor or lessee has to take the recourse provided under law. Might cannot be prevailed over the law. The assertion in para 9 of the plaint is with regard to blocking of the passage of the vehicles to the petrol pump. It does not mean that the petitioner-defendant had taken possession. The remedy for the petitioner-defendant is to take possession in accordance with law. The direction given by the trial Court as noticed above, in my view, is most innocuous. The injunction order is granted for not to take forcible possession instead to avail the remedy in due course of law. The petitioner-defendant is at liberty to avail the remedy in accordance with law and not in the mode and manner as indicated above.

For the foregoing reasons, I do not find any illegality and perversity in the orders under challenge as the petitioner-defendant has not been able to make out a case within the parameters of Order 39 Rule 1 and

2. No ground for interference is made out. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

August 09, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No