

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.5207 of 2016
Date of decision: 16.8.2016

Gian Chand ...Petitioner
Versus

Gulshan and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sanjiv Gupta, Advocate for the petitioner.

Rajan Gupta, J. (oral)

In the present revision petition challenge is to the order dated 29.7.2016, passed by Additional District Judge, Kurukshetra, whereby order dated 3.11.2014, passed by the trial court, dismissing the application U/O 39 Rules 1 & 2 CPC, has been set-aside.

Learned counsel for the petitioner has assailed the order. According to him, the first appellate court has failed to appreciate the controversy in right perspective. He submits that in earlier round of litigation, status quo has been granted, therefore, the trial court has rightly rejected the application for ad-interim stay filed by the petitioner/ plaintiffs.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears that respondents No.1 to 3 filed a suit for permanent injunction restraining the defendants (petitioner and proforma respondents No.4 to 6 herein) from interfering into their peaceful possession over property No.2198/5, Chhota Bazar, Thanesar, Kurukshetra. Alongwith the suit, plaintiffs also filed an application U/O

39 Rules 1 & 2 read with Section 151 CPC for grant of ad-interim injunction. Plea was resisted by the defendants. They contended that defendants are owners in possession of the suit property. Plaintiffs are neither tenant nor there is any agreement between the parties regarding the said property. The trial court after hearing the parties, dismissed the application for stay. Respondents preferred appeal before the appellate court at Kurukshetra. It set-aside the order passed by the trial court and allowed application U/O 39 Rules 1 & 2 CPC, restraining petitioners from interfering into the peaceful possession of the respondents over the property in dispute. It observed that as per report of the local commission, plaintiffs are in possession of the plot in question as they are tenants over the same. Aggrieved, present revision has been preferred by the petitioner before this court.

I am of the considered view that the first appellate court has rightly allowed the application for ad-interim stay. Admittedly, respondents No.1 to 3/plaintiffs are tenants over the suit property and they can be ejected only in due course of law. No ground to interfere in revisional jurisdiction is made out.

Dismissed.

Nothing said hereinabove shall be treated to be expression on merits of the case.

(RAJAN GUPTA)
JUDGE

16.8.2016
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No