

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

CR No.7111 of 2016  
Date of decision : 22.10.2016

Harvinder Kaur

...Petitioner

Versus

Uma Dua and another

..Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.**

Present: Mr. A.P.S. Sandhu, Advocate for the petitioner.

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**AMIT RAWAL, J. (Oral)**

The petitioner-defendant No.1 is aggrieved of the impugned order dated 16.09.2016, whereby lower Appellate Court has allowed the miscellaneous application of the respondent-plaintiff filed against the order declining ad interim relief in a suit for permanent injunction seeking restraint order against the defendant No.2 from releasing new water and sewerage connection in the name of petitioner in shop bearing No.2 forming part of property No.584, Basant Nagar, Amritsar, has been allowed.

Mr. A.P.S. Sandhu, learned counsel appearing on behalf of petitioner-defendant No.1 submits that suit aforementioned was filed on 09.07.2013 by the respondent No.1-plaintiff on the ground, that, petitioner is a tenant in the property in dispute as per the rent note dated 07.06.2003 (Annexure P-1). The lower Appellate Court has mis-construed and misread

the contents of the rent note whereby the petitioner-defendant No.1 had given the undertaking for not getting the water connection, whereas petitioner sought water connection owing to the running of bakery shop since long. It was not the case where such facility is available, therefore, could have invoked the provision of Section 9 of the East Punjab Urban Rent Restriction Act, 1949. Even the ingredients of Order 39 Rules 1 and 2 of the Code of Civil Procedure were not made out, therefore, the application is liable to be dismissed and urges this Court for the setting aside the impugned order.

I have heard learned counsel for the petitioner and appraised the paper book and of the view that in case relief sought by the petitioner for issuance of independent water and sewerage connection is accepted, it would tantamounts to dismissal of suit without trial. The suit is of the year 2013. Parties are still litigating for interim stay. Nothing prevented the petitioner to seek the expeditious disposal of the suit by making such requests to the trial Court.

I am of the view that the interpretation of the rent note would be subject matter of the suit and should not be construed as an expression of opinion as noticed by the lower Appellate Court but the fact remains that interim injunction at this stage is not made out owing to the fact that the balance of convenience prima facie i.e. ingredients of provision of Order 39 Rules 1 and 2 are also not made out. Admittedly, respondent is landlord and status of the petitioner is a tenant.

I do not intend to differ with the prima facie findings recorded by the lower Appellate Court.

It is further made clear that findings rendered by the lower Appellate Court shall not be construed as an expression of opinion on the merits of the suit.

No ground for interference is made out.

Accordingly, present revision petition is dismissed.

**22.10.2016**

*pawan*

**(AMIT RAWAL)  
JUDGE**

**Whether speaking/reasoned:- Yes/No**

**Whether reportable:- Yes/No**