

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

CR No. 8756 of 2016(O&M)

Date of decision: 23.12.2016

Krishan Kumar

....Petitioner

VERSUS

The Director Farm and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ashish Aggarwal, Senior Advocate with
Mr. Kulwant Singh, Advocate for the petitioner.

Mr. Deepak Balyan, Additional A.G. Haryana for respondent
No.1.

Mr. Jagbir Singh, Advocate for respondent No.2.

REKHA MITTAL, J.

The present petition directs challenge against order dated 20.12.2016 (Annexure P-6) passed by the Additional District Judge, Hisar whereby operation of the order dated 06.12.2016 (Annexure P-5) passed by the Civil Judge (Junior Division), Hisar has been stayed pending appeal.

The petitioner has filed a suit for declaration assailing letter bearing memo No.1032-1033 dated 07.11.2016 issued by defendant No.1 by which contract dated 25.10.2016 has been cancelled with consequential relief of permanent and mandatory injunction restraining defendant No.1 from implementing the cancellation order and permitting the plaintiff to continue his work as per the contract. Along with the suit, an application for grant of interim injunction by invoking the provisions of Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 (in short 'CPC') was filed. The trial Court, on a detailed consideration of

the matter, in the light of rival submissions made by counsel for the parties allowed interim injunction in favour of the petitioner and the respondents/defendants were restrained from implementing notice dated 07.11.2016 and they were directed to allow the plaintiff to perform his part of the agreement till decision of the suit. A direction was issued to the plaintiff to sow only wheat crop as per the agreement after removing mustard crop standing on a part of the suit land.

The order passed by the trial Court became subject matter of appeal filed before the Additional District Judge, Hisar. The Appellate Court passed the impugned order and a relevant extract therefrom reads as follows:-

“Keeping in view the urgent nature of this appeal lower court record file was summoned. Brief arguments heard. Considering the impugned order dated 6.12.2016 as well as the arguments of the parties and all other documents, till further orders, impugned order dated 6.12.2016 passed by Sh. Mohammad Sageer Learned Civil Judge (Junior Division) Hisar is hereby stayed. On the joint request made by the counsel for parties matter is adjourned for final adjudication and hearing for 04.01.2017. LCR be also retained till next date of hearing.”

Counsel for the petitioner has submitted that as per the agreement executed between the petitioner and the Director Farm, the petitioner was permitted to sow wheat crop on land measuring 150 acres. Prior to the agreement being cancelled vide notice dated 07.11.2016, he had sown wheat crop on 45 acres of land. Thereafter, he had already sown wheat crop on the entire land measuring 150 acres. It is argued that as per the agreement with duration of about six months w.e.f. 25.10.2016 to 31.05.2017, seeds for sowing the wheat crop were to be supplied by the Corporation and the petitioner is required to return six quintals of wheat

per acre to the Corporation and the wheat procured in excess of six quintals per acre was to be purchased by the Corporation from the petitioner. It is further submitted that the trial Court on a detailed consideration of the matter including plea of the respondents that Sh. Paras Ram was not competent to enter into a contract and departmental proceedings have been initiated against him for committing illegality by unauthorizedly entering into the contract, allowed interim injunction. However, the Court of appeal without assigning any reason has stayed the order passed by the trial Court. According to counsel, in case the petitioner is not permitted to irrigate the land, entire effort to sow the wheat crop by spending huge money and energy including services of labour would go waste. He has submitted that the petitioner may be permitted to irrigate the land till decision of the appeal by the Court below but he would not claim any better right for grant of injunction on the basis of interim relief, if any, granted by this Court.

Counsel for the respondents, in view of arguments advanced before the trial Court has assailed competency of Sh. Paras Ram to enter into any such agreement, therefore, the petitioner is not entitled to indulgence of this Court in any manner whatsoever. It has further been argued that the Corporation has enough of resources to take care of the land and the wheat already sown, thus, there is no question of damage to the crop in case the petitioner is not permitted to irrigate the land and look after sowing already done.

I have heard counsel for the parties, perused the paper-book with their assistance.

As it is neither desirable nor otherwise possible for this Court to examine comparative merits of the case set up by the parties at this

juncture as the Court would be closed for winter vacations till 08.01.2017, in view of the fact that the trial Court has disposed of the application for interim injunction on a detailed consideration of the matter and after hearing the parties at length whereas the Court of appeal has not assigned any reason for grant of interim stay coupled with that sowing of wheat crop has already been completed at the behest of the petitioner, to save the wheat crop, as an interim measure, operation of the impugned order is stayed till disposal of the appeal by the Additional District Judge, subject to the following conditions:-

1. Permission granted to the petitioner to look after the land will not enure to his benefit in any manner whatever either for seeking interim injunction or claiming any damages.
2. The Court of appeal shall decide the appeal on 04.01.2017 or within a period of 7 days thereafter.
3. In case the petitioner or his representative does not come forward to make submissions in the appeal because of interim relief granted by this Court, stay would stand automatically vacated.

With the aforesaid observations, the petition stands disposed of. Nothing stated hereinbefore would be construed as an expression of opinion on merits of the controversy.

DECEMBER 23, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no