

CR No. 1649 of 2017 (O&M)

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No. 1649 of 2017 (O&M)
Date of decision: 07.3.2017**

Sham Lal

...Petitioner

Versus

Jagjit Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Hemender Goswami, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition is directed against the impugned judgment dated 27.1.2017 passed by the learned District Judge, whereby miscellaneous civil appeal of the petitioner-plaintiff was dismissed and the order dated 19.8.2016 passed by learned trial court, dismissing the application of the plaintiff-petitioner under Order 39 Rules 1 and 2 of the Code of Civil Procedure ('CPC' for short), was upheld.

Heard learned counsel for the petitioner.

A bare reading of the impugned order passed by learned trial court, dismissing the application of the plaintiff-petitioner under Order 39 Rules 1 and 2 read with Section 151 CPC and also the judgment passed by the learned District Judge, upholding the order passed by learned trial court, would make it crystal clear that petitioner-plaintiff is not a bonafide litigant.

When specifically and repeatedly confronted to answer, as to

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how the petitioner was entitled for ad interim injunction, during pendency of his suit for injunction once his earlier suit of similar nature has already been dismissed by learned trial court, vide judgment and decree dated 15.1.2013, learned counsel for the petitioner had no answer and rightly so, it being a matter of record. The litigant who does not come to the court with clean hands is not entitled for any kind of sympathy and relief from the court, including the discretionary relief. Having said that, this Court feels no hesitation to conclude that learned courts below were within their jurisdiction to pass the impugned orders and the same deserve to be upheld.

The abovesaid view taken by this Court also finds support from the following judgments of the Hon'ble Supreme Court as well as different High Courts including this Court:-

1. V. Chandrasekaran and Anr. Vs. Administrative Officer and others, 2012 (4) RCR (Civil) 588 (SC)
2. Maria Margarida Sequeria Fenandes and others Vs. Erasmo Jack de Sequeria (Dead) through Lrs and others, 2012 (5) SCC 370 (SC)
3. Dharam Pal and others Vs. Gurcharan Singh and others, 1989 (2) CurLJ (CCR) 706 (P&H)
4. Jaspreet Singh Vs. Manoj Kumar 2009 (4) Law Herald 2579 (P&H)
5. Sham Lal Vs. Rajinder Kumar and others, 1994 (30) DRJ 596 (Delhi High Court)

The relevant observations made by the Hon'ble Supreme Court in para Nos. 34 to 37 of its judgment in V. Chandrasekaran's case (supra), which can be gainfully followed in the present case, read as under:-

34. The appellants have not approached the court with clean hands, and are therefore, not entitled for any relief. Whenever a person approaches a Court of Equity, in the exercise of its extraordinary jurisdiction, it is expected that he

*will approach the said court not only with clean hands but also with a clean mind, a clean heart and clean objectives. Thus, he who seeks equity must do equity. The legal maxim “Jure Naturae Aequum Est Neminem cum Alterius Detrimento Et Injuria Fieri Locupletiolem”, means that it is a law of nature that one should not be enriched by causing loss or injury to another. (Vide: **The Ramjas Foundation & Ors. v. Union of India & Ors.**, AIR 1993 SC 852; **Nooruddin v. (Dr.) K.L. Anand**, (1995) 1 SCC 242; and **Ramniklal N. Bhutta & Anr. v. State of Maharashtra & Ors.**, AIR 1997 SC 1236).*

35. *The judicial process cannot become an instrument of oppression or abuse, or a means in the process of the court to subvert justice, for the reason that the court exercises its jurisdiction, only in furtherance of justice. The interests of justice and public interest coalesce, and therefore, they are very often one and the same. A petition or an affidavit containing a misleading and/or an inaccurate statement, only to achieve an ulterior purpose, amounts to an abuse of process of the court.*

36. *In **Dalip Singh v. State of U.P. & Ors.**, (2010) 2 SCC 114, this Court noticed an altogether new creed of litigants, that is, dishonest litigants and went on to strongly deprecate their conduct by observing that, the truth constitutes an integral part of the justice delivery system. The quest for personal gain has become so intense that those involved in litigation do not hesitate to seek shelter of falsehood, misrepresentation and suppression of facts in the course of court proceedings. A litigant who attempts to pollute the stream of justice, or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.*

37. *The truth should be the guiding star in the entire judicial process. “Every trial is a voyage of discovery in which truth is the quest”. An action at law is not a game of chess, therefore, a litigant cannot prevaricate and take inconsistent positions. It is one of those fundamental principles of*

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*jurisprudence that litigants must observe total clarity and candour in their pleadings. (Vide: **Ritesh Tewari & Anr. v. State of Uttar Pradesh & Ors.,(2010) 10 SCC 677; and Amar Singh v. Union of India, (2011) 7 SCC 69).***

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in either of the impugned orders passed by the learned courts below, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In this view of the matter, it can be safely concluded that learned courts below committed no error of law, while passing the impugned orders and the same deserve to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

07.3.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No