

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

**CIVIL REVISION No 1669 of 2017
DECIDED ON: APRIL 25, 2017**

BEANT SINGH & OTHERS

.....PETITIONERS

VERSUS

OM PARKASH JINDAL AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Rakesh Gupta, Advocate
for the petitioners.

Mr. Munish Gupta, Advocate
for respondent No.1.

JASPAL SINGH, J

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioners have sought the setting aside of order dated January 19, 2017 (Annexure P-1) passed by learned Civil Judge (Jr. Division), Nabha, whereby, an application moved by the petitioners under Section 151 of the Code of Civil Procedure (for short 'CPC') for the grant of police help to implement restraint order dated February 14, 2009; has been dismissed.

The contention of learned counsel for the petitioners is that the impugned order dated January 19, 2017 (Annexure P-1) is absolutely against

the settled canons of law. It is an undisputed fact that petitioners No.2 and 3 preferred a civil suit seeking relief of permanent injunction restraining respondent No.1, his servants, agents etc. from changing the nature of the land by raising any type of construction or otherwise in any manner over the property in dispute situated at Nabha. After the institution of suit before learned trial Court, an application under Order XXXIX Rule 2-A read with Section 151 of the Code was allowed and respondent No.1 was restrained from changing the nature of property in suit during the pendency of suit. Subsequently, petitioners moved an application for willfully disobeying the afore-said orders (Annexure P-1) and during the pendency thereof, an application under Section 151 of the Code was moved for the proper implementation of the order referred to above but that application has been dismissed without any rhyme and reason and assigning any cogent reason by learned trial Court, which has necessitated the filing of instant petition.

It is well settled proposition of law that the Court is fully empowered to provide police help to the decree holders for the proper implementation of the restraint orders as well as decree, if any, passed by Court. But in the instant case though an application Section 151 of the Code was moved during the pendency of an application under Order XXXIX Rule 2-A of the Code but that has been declined.

On the other hand learned counsel for respondent No.1 has argued with vehemence that an application moved under Section 151 of the Code for the grant of police help has already been declined by learned trial Court, as the order (Annexure P-1) which is sought to be implemented by way

of police help has already merged in the judgment and decree dated November 27, 2014 (Annexure P-3). In fact, respondent No.1 is in actual physical possession of the property in dispute, which is covered by the boundary wall and is comprised in khasra Nos. 638 (18-3), whereas, respondent No.1 and Pawan Kumar Jindal have already raised a construction much prior to the filing of the suit before learned trial Court. Since, the decree has already been passed, if at all petitioners can approach the learned trial Court to avail other efficacious remedies available to them under law. Moreover, interim order cannot be implemented by way of police help.

After bestowing due consideration to the afore-said submissions made by learned counsel for the parties and appraisal of documents, this Court is of the considered view that it is amply proved on record that suit for permanent injunction in which the interim order dated January 19, 2017 was passed has since been decided vide judgment and decree dated November 27, 2014. During the pendency of the said suit, an application under Order XXXIX Rule 2-A of the Code for wilfully disobeying the orders dated January 19, 2017 was filed but it is a matter of evidence whether the said order has been intentionally violated or disobeyed by the respondents and during the pendency of said application, no order for providing police help can be made because if the respondents have wilfully violated or disobeyed the injunction order, petitioners are obliged to prove the same for taking an action against respondents. Moreover, after the final disposal of suit vide judgment and decree November 27, 2014, the other efficacious remedies are available to the petitioners including to prefer an application under Order XXI

Rule 32 of the Code for the implementation of the judgment and decree dated November 27, 2014. Application moved under Section 151 of the Code during the pendency of an application under Order XXXIX Rule 2-A of the Code has already been dismissed by learned trial Court vide impugned order.

Since the impugned order is absolutely in consonance with the provisions of law, thus, this Court is of the considered view that no interference, therein, by this Court is justified.

In the light of what has been discussed above, this Court does not find any merit in the instant revision. As such, it stands dismissed.

No order as to costs.

**JASPAL SINGH
JUDGE**

APRIL 25, 2017

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Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*