

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-1760-2017 (O&M)

Date of Decision: March 9, 2017

Naresh Kumar and another

...Petitioners

Versus

Gram Panchayat, Bhojawas and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI**

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

**ARUN PALLI, J. (ORAL)**

Vide order dated 03.03.2017, that is being assailed, Additional District Judge, Narnaul, has declined to grant an ex party ad interim injunction to the petitioners, and has since posted the matter for service of respondent Nos. 1 and 2.

Concededly, vide order dated 28.02.2017, an application moved by the petitioners under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, has been dismissed by the Trial Court. In an appeal preferred by the petitioners/plaintiffs against the said order, the Court declined to grant any ad interim injunction, in the absence of respondent Nos. 1 and 2. Thus, the matter is now posed for 15.03.2017, for service of the said respondents.

Learned counsel for the petitioners submits that post passing of the impugned order, dated 03.03.2017, the petitioners were served with a notice under Section 24(2) of the Haryana Panchayati Raj Act, 1994 (for short, 'the Act'), on 07.03.2017, vide which they were required to remove the alleged encroachment/hindrance that exists at site. And in case of any objection thereto, to appear before the authority on 08.03.2017. It is submitted that although the petitioners appeared before the competent on

07.03.2017, itself and explained their stand, but to no avail.

I have heard learned counsel for the petitioners and perused the records.

Concededly, the first Appellate Court is seized of the miscellaneous appeal preferred by the petitioners against the order declining injunction. The matter is posted for service of respondent Nos. 1 and 2, for 15.03.2017. Even if, post passing of the order dated 03.03.2017, the petitioners were served with a notice under Section 24(2) of the Act, and there is a genuine apprehension of demolition of the alleged encroachment/structure, the petitioners ought to have approached the first Appellate Court, which is seized of the matter, in the first instance. That being so, no interference is warranted, at this stage, with the order passed by the first Appellate Court. Faced with this, learned counsel for the petitioners submits that the necessary application shall be moved before the first Appellate Court tomorrow itself, i.e. 10.03.2017. Suffice it to observe that in the event any such application is indeed moved, in the wake of the emergency that purport to exist, learned first Appellate Court shall consider the same forthwith, in accordance with law, and pass appropriate orders.

Dismissed with the above observations.

**(ARUN PALLI)**  
**JUDGE**

**March 09, 2017**

P Kapoor

Whether Speaking/Reasoned:

YES / NO

Whether Reportable:

YES / NO