

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.4200 of 2015 (O&M)
Date of Order: 18.09.2017

Surmukh Singh

..Petitioner

Versus

Jit Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vijay Lath, Advocate,
for the petitioner.

Mr. J.S.Lalli, Advocate,
for the respondents.

ANIL KSHETARPAL, J (Oral)

Plaintiff is in revision petition against the order passed by the learned Civil Judge (Jr. Division), Ropar, dated 25.11.2013.

Plaintiff claims that order of temporary injunction has been violated and water channel has been demolished by the defendants in violation of the order of temporary injunction.

Learned trial Court after considering the facts of the case has chosen to dismiss the application.

During the course of arguments, learned counsel for the respondents has brought to my notice that an application filed by the plaintiff under Order 39 Rule 2A of the Code of Civil Procedure has been dismissed by the Court, on 31.05.2017. He has further brought to my notice that the plaintiff has already amended the suit and sought the relief of mandatory injunction for restoration of the water channel.

Learned counsel for the petitioner has argued that the findings

of the Court while deciding the application under Order 39 Rule 1 & 2 of the Code of Civil Procedure has become final and therefore once the order has been violated, the Court ought to have granted the relief of restoration of the 'Khal' (water channel). The order passed in the application filed under Order 39 Rule 1 and 2 is only on the basis of prima-facie finding. While deciding application under Order 39 Rule 1 and 2, the Court does not finally opine on the merits of the case. Plaintiff filed an application under Order 39 Rule 2A, which has already been dismissed. The suit is pending for the last five years. Plaintiff has already amended the suit and sought restoration of the 'khal' (water channel).

In these circumstances, I do not find any good ground to interfere, at this stage. However, since the suit was filed on 08.08.2012, the trial Court is directed to decide the suit positively, within one year from today.

The civil revision is disposed of accordingly.

September 18, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No