

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR No.4370 of 2016

Date of Decision: 24.11.2017

Manohar Lal

...Petitioner

VERSUS

Mahabir and others

...Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr.Mukesh Yadav, Advocate, for the petitioner.

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**RITU BAHRI, J. (Oral)**

The petitioner has come up in revision for setting aside the impugned order dated 09.11.2015 (Annexure P-3) whereby, the appeal filed by the present petitioner has been dismissed.

The brief facts of the case are that petitioner had filed a petition under Order 39 Rule 2A read with Section 151 CPC against the respondents herein. The trial Court had allowed this petition keeping in view the report dated 02.06.2008 (Ex.AW3/A) of the local commissioner who was appointed by it and a direction was issued to attach the property of respondent No.1 Mahabir as per violation of the order dated 20.12.2007. However, as per order dated 20.12.2007, respondents have filed written statement and both the parties were directed to maintain status quo over the suit property. The trial Court had appointed a local commissioner and in view of his report dated 02.06.2008, the construction had been carried out despite the term status quo was granted and after going through the evidence, the trial Court came to the conclusion that respondent No.1 was found for guilty of violation of

injunction order and his property was directed to be attached for one year as per Rule 39 Rule 2 CPC.

In appeal, the learned counsel for the petitioner had argued respondent-Mahabir should be sent to civil imprisonment and the trial Court had ordered that the attachment shall remain in force for one year and the applicant was at liberty to carry out further proceedings if such disobedience is continued within the time of the aforesaid judgment.

No other points was argued.

Since, the appellate Court had ordered the attachment of property of respondent No.1 Mahabir shall remain in force for one year and to carry out further proceedings if such disobedience is continued, this Court has no power to send the Mahabir to a civil imprisonment as no mandatory provision has been made under Order 39 Rules Rule 2(A) (i) CPC to exercise for civil imprisonment.

So in the light of the discussion, the orders of the Courts below do not reflect any material irregularity or perversity which warranting interference. Hence the present revision stands dismissed.

24.11.2017  
anil

(RITU BAHRI)  
JUDGE

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|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |