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

**Civil Revision No.5025 of 2016
Date of Decision: 21.07.2017**

HARMEET SINGH BAWEJA

.....Petitioner

Vs

STATE BANK OF PATIALA & ORS

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Balram Singh, Advocate
for the petitioner.

Mr. D.K. Singal, Advocate
for respondent Nos.1 and 2.

Mr. H.S. Jugait, Advocate for
Mr. Sumit Narang, Advocate
for respondent Nos.3 and 4.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed order dated 08.07.2016 passed by the Civil Judge (Jr. Divn.) Phagwara vide which ad interim injunction granted in favour of the plaintiff/petitioner on 02.05.2016 was vacated on account of failure on the part of the plaintiff to serve defendant Nos.5 and 6.

[2]. Learned counsel for the petitioner submitted that in the order dated 02.05.2016, a condition was imposed that if, service on the defendants is not effected till 31.05.2016 ad interim

injunction would be vacated automatically.

[3]. Learned counsel pointed out that on 31.05.2016 contesting defendant Nos.3 and 4 appeared through their counsel. Defendant Nos.1 and 2 also appeared on the said date and they filed application under Order 7 Rule 11 read with Section 151 CPC for rejection of the plaint and also for vacation of *ex parte* stay dated 02.05.2016.

[4]. Learned counsel further submitted that defendant Nos.1 to 4 were the only contesting defendants and they were duly served on 31.05.2016. Defendant Nos.5 and 6 were the only proforma defendants and even *qua* them an application under Order 5 Rule 20 CPC was moved by the plaintiff for effecting substituted service upon them. Prayer for injunction was only *qua* defendant Nos.1 to 4. Vide the impugned order, the trial Court ought not to have vacated the interim stay order dated 02.05.2016.

[5]. Learned counsel for respondent Nos.1 and 2, however opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner has purchased the property from defendant Nos.5 and 6, therefore, service *qua* defendant Nos.5 and 6 cannot be ignored on the plea that the said defendants are not necessary to be served for the purpose of injunction.

[6]. I have heard learned counsel for the parties.

[7]. From the record, I find that the application under Order 39 Rules 1 and 2 was pressed into service only qua defendant Nos.1 to 4. Defendant Nos.1 to 4 were duly represented by the counsel before the trial Court on 31.05.2016.

[8]. In view of above, I deem it appropriate to restore the interim order dated 02.05.2016 by setting aside the order dated 08.07.2016. The application under Order 7 Rule 11 CPC filed by defendant Nos.1 and 2 is pending consideration before the trial Court. It would be in the fitness of things, if the trial Court is obligated to decide the pending application at the earliest, preferably within a period of two months from the date of receipt of certified copy of this order.

[9]. In the light of aforesaid observations, this revision petition is disposed of.

July 21, 2017

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No