

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

CR No.5330 of 2017 (O&M)
Date of decision : 11.08.2017

Jasbir Singh

...Petitioner

Versus

Amrik Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Jatinder Jit Kaur, Advocate for the petitioner.

ANIL KSHETARPAL, J.

The defendant is petitioner in this revision petition under Article 227 of the Constitution of India challenging the orders passed by the Courts below while deciding the application for grant of temporary injunction under Order 39 Rules 1 and 2 CPC.

The plaintiff had filed a suit for permanent injunction restraining the defendant from taking the forcible possession. Alongwith the suit, the plaintiff had filed an application for grant of injunction. The learned trial Court allowed the application and restrained the defendant from interfering in peaceful possession of the plaintiff except in due course of law. Appeal preferred by the defendant was also dismissed by the learned Additional District Judge vide judgment dated 17.05.2017.

Learned counsel for the petitioner has submitted that the aforesaid orders amounts to a decree as final relief itself has been granted.

Learned counsel for the petitioner has further submitted that the Courts have ignored the two investigation reports conducted by the police officials. Learned counsel has further submitted that the orders passed by the Courts below are perverse.

I have carefully considered the submissions of learned counsel and with her able assistance gone through the paper book.

There is no force in the first submission of the learned counsel as Courts have only decided the application filed under Order 39 Rules 1 and 2 CPC and restrained the defendant from interfering in the possession. The injunction is temporary in nature. While deciding the application filed under Order 39 Rules 1 and 2 CPC, the Court passed an order which is operative during the pendency of the suit. Therefore, the parties would lead evidence and the Court would finally adjudicate upon the dispute.

Second submission of the learned counsel for the petitioner that the Courts have ignored two reports of the police officials is just to be noticed and rejected. Such reports of the police officials are not binding on the Civil Court.

Next submission of the learned counsel for the petitioner is that the orders passed by the Courts below are perverse. However, on pointed question, counsel for the petitioner was not able to point out any perversity in the impugned order.

Both the Courts after appreciating the documents available on the file and the pleadings of the parties, have prima facie found the plaintiff to be in possession and the defendant has been restrained from interfering in the possession of the plaintiff except in due course of law.

For the reasons recorded above, there is no ground to interfere with the orders passed by the Courts below.

Revision petition is dismissed.

However, the learned trial Court is requested to expedite the trial as the suit is only for permanent injunction.

Any observation made by this Court or by the Courts below while deciding application under Order 39 Rules 1 and 2 CPC would not be binding on the trial Court while deciding the suit.

All pending miscellaneous application is accordingly disposed of in view of the abovesaid judgment.

11.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No