

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR No.6524 of 2015 (O&M)

Date of decision: 08.08.2017

Mohinder Singh through Special Attorney Inderjit Singh and another

... Petitioners

Vs.

Sampuran Singh and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

Present: Mr. Vikas Mehsempuri, Advocate  
for the petitioners.

Mr. Manvinder Singh Dalal, Advocate  
for respondents No.1 to 4.

\*\*\*\*\*

**RAMESHWAR SINGH MALIK, J. (ORAL)**

Feeling aggrieved against the order dated 20.08.2015 (Annexure P-5) passed by the learned trial Court, directing the plaintiff either to ensure the presence of Mohinder Singh-plaintiff or point out about his whereabouts, petitioners have approached this Court by way of present revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued and operation of the impugned order was stayed.

Heard learned counsel for the parties.

A bare perusal of the order dated 20.05.2015 (Annexure P-3) passed by the learned trial Court shall make it crystal clear that the impugned order dated 20.08.2015 was wholly unwarranted. Instead of passing the impugned order

(Annexure P-5), the learned trial Court ought to have proceeded further with the suit and decided the same in accordance with law, particularly when the relevant issues had already been framed, which were rightly discussed in the earlier order dated 20.05.2015 (Annexure P-3). Having said that, this Court feels no hesitation to conclude that the learned trial Court exceeded its jurisdiction to pass the impugned order and the same cannot be sustained.

Neither any object was going to be achieved by passing the impugned order nor any other purpose was going to be served. Once the parties have already produced their respective documentary as well as oral evidence in support of their respective pleaded cases and the case was already at the final stage, neither passing of the impugned order dated 20.08.2015 (Annexure P-5) was necessary nor the learned trial Court should have wasted its time in passing this order. In fact, it seems that the defendants-respondents were trying to delay the decision of the suit, proceeding on one or the other lame excuses. The suit itself would have been decided by now. Under these undisputed facts and circumstances of the case, it can be safely concluded that the learned trial Court fell in serious error of law, while passing the impugned order and the same deserves to be set aside, for this reason also.

During the course of hearing, learned counsel for the respondents could not raise any meaningful arguments in support of the impugned order. In fact, as noticed hereinabove, impugned order was neither warranted nor was going to serve any purpose and the same cannot be sustained, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered

view that since the impugned order has been found suffering from patent illegality, it cannot be sustained. Accordingly, the impugned order dated 20.08.2015 (Annexure P-5) passed by the learned trial Court is hereby set aside.

The learned trial Court is directed to proceed further with the suit to decide the same at an early date.

With the abovesaid observations made and directions issued, instant civil revision petition stands allowed, however, with no order as to costs.

08.08.2017  
*vishnu*

**[ RAMESHWAR SINGH MALIK ]**  
**JUDGE**

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |