

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.8294 of 2017

Date of decision:01.12.2017

Gurmeet Kaur and another

... Petitioners

Vs.

Kulwant Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Karan Bhardwaj, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

The petitioner/defendants have invoked the jurisdiction of this Court under Article 227 of the Constitution of India seeking the relief as mentioned in the head note/prayer clause of the present revision petition.

Mr. Karan Bhardwaj, learned counsel for the petitioner-defendants submits that the respondent-plaintiff instituted a suit for permanent injunction restraining the defendants, their agents, attorneys, servants, employees, associates etc. from interfering or causing any interference in the exclusive possession and obtained ad interim stay, vide order dated 12.05.2017 on an application moved under Order 39 Rules 1 and 2 CPC. Later on, he had adopted all dilatory tactics by moving the application for amendment of the plaint by inserting the word “other co-sharer” instead of word “defendant” without establishing that there is an exclusive possession of the same which has been allowed, vide order dated

24.08.2017 and thereafter, had sought two adjournments to file the amended plaint. The apprehension of the respondent-plaintiff surfaced when the application (Annexure P-7) for providing police protection for implementation of order dated 12.05.2017 had been moved vide which ad interim ex parte injunction was granted, which clearly shows that the respondent-plaintiff did not want the adjudication of the ad-interim application. Reliance has been placed upon the various zimni orders passed from time to time, i.e., upto 21.11.2017. He, thus, urges this Court for issuance of appropriate directions to the Court below to decide the ad interim application, in accordance with law.

I have heard learned counsel for the petitioner/defendants and appraised the paper book.

I deem it appropriate to dispose of the present revision petition without issuing notice of motion to the respondents as zimni orders are testimony of the proceedings of the Court which cannot be found to be faulted with. However, with regard to the proceedings post 21.11.2017, Mr. Bhardwaj, Advocate apprised that the matter had been adjourned twice, i.e., 28.11.2017 and thereafter adjourned to 12.12.2017 for consideration of the application for implementation of the ad interim order, whereas, in my view, the entire focus of the Court should have been on the main application. Accordingly, the Civil Judge (Junior Division), Payal is directed to decide the ad interim application after taking into consideration the stand taken in the written statement, in accordance with law within a period of one month from today.

Resultantly, revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

December 01, 2017
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No