

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

**CR-1562-2018 (O &M)  
Date of decision: - 9.3.2018**

**Smt. Babita**

**.....Petitioner.**

**versus**

**Smt. Suman and others**

**.....Respondents.**

**CORAM: - HON'BLE MR. JUSTICE HARI PAL VERMA.**

Present: - Mr. Aalok Jagga, Advocate for the petitioner.

.....

**HARI PAL VERMA, J. (ORAL**

Present revision petition has been filed impugning the order dated 12.2.2018 (Annexure P-1) passed by learned Civil Judge (Junior Division), Bahadurgarh, District Jhajjar whereby in a suit titled as “***Suman versus Raj Kumar and others***”, learned trial Court has directed the parties to maintain status quo regarding alienation over the suit properties.

Respondent No. 1-plaintiff i.e. Smt. Suman has filed a suit for declaration with consequential relief of permanent injunction against the defendants that the *Will bearing serial No. 240 dated 26.6.2006* and *registered codicil bearing serial No. 490 dated 11.10.2007* being null and void, based on fraud, misrepresentation and undue influence, therefore, the same is not binding upon her.

The case is pending before the learned Civil Judge (Junior Division), Bahadurgarh, District Jhajjar. On 12.2.2018, learned trial Court has passed the following order: -

“Present: - Sh. D.K.Goel, learned counsel for the plaintiff.  
Sh. R.K.Sharma, learned counsel for defendant No. 4.  
Sh. V.S. Dalal, learned counsel for defendant No. 2.

Sh. R.K.Sharma, Advocate on behalf of the defendant No. 4  
and Sh. V.S. Dalal, Advocate on behalf of defendant No. 2 have appeared.

An application under Order 7 Rule 11 read with Section 11  
of the CPC has been filed by the defendant No. 4. Copy given. Its reply be  
filed on 22.2.2018.

Notice issued to defendants No. 1 and 5 received back  
unserved whereas notice issued to defendant No. 3 and 6 not received  
back either served or unserved. Fresh summons be issued to them for  
22.2.2018 as per law.

Written statement and reply be filed on 22.2.2018 on behalf  
of defendant No. 2.

Till the next date of hearing, in the interest of justice and to  
avoid multiplicity of proceedings, the appearing parties are directed to  
maintain status quo qua alienation over the suit properties detailed in the  
plaint to the extent of their share.”

On 22.2.2018, learned trial Court passed the following order: -

“Present: - Sh. D.K.Goel, learned counsel for the plaintiff.  
Sh. R.K.Sharma, learned counsel for defendant No. 4.  
Sh. V.S. Dalal, learned counsel for defendant No. 2.

Case was listed for filing reply to application moved by  
defendant No. 4 under Order 7 Rule 11 CPC read with Section 11 of CPC.

Reply not filed. At this stage, an application for deciding  
the application under Order 7 Rule 11 at early date has been moved by  
defendant No. 4. Copy given. Reply to the application under Order 7 Rule  
11 read with Section 11 of CPC be filed by plaintiff on 5.3.2018, subject  
to last opportunity.

Notice issued to defendants No. 1 & 5 received back  
unserved. ***Now, fresh notice be issued to them for 5.3.2018.***

Notice issued to defendants No. 3 & 6 not received back.  
***Now fresh notice be issued to them for the date fixed.***

Written statement and reply on behalf of defendants No. 2  
and 4 not filed. Adjournment sought. Heard. **Same be filed on the date  
fixed.**

**Till then interim order to be continued.”**

Learned counsel for the petitioner has argued that on 12.2.2018, defendant No. 4-petitioner has filed an application under Order 7 Rule 11 read with Section 11 of the Code of Civil Procedure, 1908 (for short 'the CPC') for rejection of the plaint on the ground that same was barred under the provisions of the Limitation Act, 1963.

Learned counsel for the petitioner-defendant No. 4 has appeared before the learned trial Court and submitted that plaint be rejected but instead of rejecting the plaint, learned trial Court issued notice in the aforesaid application and directed the parties to maintain status quo regarding alienation over the suit properties detailed in the plaint to the extent of their share till the next date of hearing.

It is further argued by learned counsel for the petitioner that now the case is fixed for further proceedings on 17.3.2018 and the petitioner apprehends that under the garb of interim orders, respondents are delaying and enjoying the stay which they otherwise are not entitled. He further submits that no reply has been filed on behalf of respondents in the said application under Order 7 Rule 11 read with Section 11 of the CPC.

Learned counsel for the petitioner further argued that the order dated 12.2.2018 passed by learned trial Court whereby parties have been directed to maintain status quo regarding alienation over the suit properties runs counter to the stay under the provisions of order 39 Rule 1 of the CPC. There is no prima facie case in favour of the respondent No. 1-plaintiff and neither there is a balance of convenience nor any irreparable loss and injury is likely to be caused to respondent No. 1-plaintiff.

I have heard learned counsel for the petitioner and perused the orders dated 12.2.2018 and 22.2.2018, passed by learned Civil Judge (Junior

Division), Bahadurgarh, District Jhajjar and find that the petitioner has shown unnecessary haste in approaching this Court without waiting for any order in an application filed under Order 7 Rule 11 read with Section 11 of the CPC. No such material has been placed on record which may justify such haste.

In view of above, this Court finds that present petition is nothing but unnecessary pressure on the Court to decide the aforesaid application without waiting for the pleadings. Present petition is totally misconceived and therefore, deserves to be dismissed with costs.

Accordingly, present petition is dismissed with costs which are quantified as Rs. 20,000/-, to be deposited with State Legal Services Authority, Haryana.

9.3.2018  
preeti

(HARI PAL VERMA)  
JUDGE

|                                   |        |
|-----------------------------------|--------|
| whether speaking/non-speaking     | yes    |
| whether reportable/non-reportable | yes/no |