

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 130

CR-6214-2018

Date of decision : 17.09.2018

Khushroop Singh Gill

..... Petitioner

VERSUS

Amrinder Kaur Sekhon

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

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

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 02.08.2018, passed by the Civil Judge (Senior Division), Ludhiana (for short, the Trial Court), through which ex-parte injunction granted to the petitioner on 16.07.2018 was vacated on the ground that the petitioner had failed to serve the respondent.

After hearing learned counsel for the petitioner and going through the record of the case, the essential facts which need to be noticed are that the petitioner had filed a suit seeking therein permanent injunction to restrain the respondent from interfering and dispossessing him from the property as detailed and described in the headnote of the plaint (for short, the suit property). Alongwith the suit, the petitioner had filed an application under Order 39 Rules 1 and 2 CPC for grant of *ad interim* injunction. The suit was registered by the Trial Court on 16.07.2018 on which date notice of the same was issued to the respondent for 02.08.2018. Through a speaking order *ad interim* stay was also granted. On 02.08.2018, as per the report of the Ahlmad notice issued to the respondent had been received back unserved with the report that the respondent was out of station. For the reason that the

respondent remained unserved, while adjourning the matter, through order dated 02.08.2018 the Trial Court vacated the *ad interim* stay. It is such order which is under challenge in the present proceedings.

A perusal of the order dated 02.08.2018 shows that on that day the respondent could not be served on the ground that she was out of station. In my opinion, the petitioner cannot be blamed for the same. Therefore, on this count, the Trial Court erred in vacating the stay granted on 16.07.2018.

Resultantly, the order dated 02.08.2018, vacating the *ad interim* stay granted on 16.07.2018 is set aside. It is clarified that it would be open to the Trial Court to consider the petitioner's prayer for stay after hearing both the parties in accordance with law and till that time, interim stay granted through order dated 16.07.2018 shall continue.

The petition is allowed in the above terms.

If the respondent is aggrieved by this order, she is at liberty to approach this Court through an appropriate application.

17.09.2018
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No