

CR-2530-2018 (O&M)

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

CR-2530-2018 (O&M)

Date of decision : 29.04.2019

Surjeet Kaur and others

... Petitioners

Versus

Reliance Jio Inffocom Ltd. and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. SKS Bedi, Advocate
for the petitioners.

Mr. Ashish Chopra, Advocate with
Ms. Rupa Pathania, Advocate
for respondent No.1.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order passed in an application under Order 39 Rules 1 & 2 of the Code of Civil Procedure, dismissed by the trial Court and dismissal of the miscellaneous appeal preferred against the same in a suit for injunction seeking restraint against the respondents from installation of the mobile tower, on the various grounds.

Mr. Bedi, learned counsel appearing on behalf of the petitioner submitted that since the petitioner-plaintiff was not successful in obtaining the interim stay, in the meantime, mobile tower had been installed acknowledged by Mr. Ashish Chopra, learned counsel representing the defendant/respondent No.1, but before the filing of the suit.

Mr. Bedi, further submitted that the petitioner-plaintiff would not be required to seek the amendment of the plaint for claiming mandatory

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injunction in view of the decision rendered by this Court in **“Dewan Chand
V/s Kalyan Dass and others” 1987 HAP 102 Punjab & Haryana.**

I have heard learned counsel for the parties, appraised the paper book and of the view that *ad interim* prayer now being sought seeking restraint against the respondents, would tantamount to allowing and decreetal of the suit, without any evidence. There is no dispute to the inherent powers of the Court under Order 7 Rule 7 of CPC for granting the relief than the one as sought in the absence of the amendment, but that would be the matter of adjudication at the final stage of the suit and not at this stage. It would be a question of the evidence for the parties to establish the same.

Keeping in view the aforementioned facts, I do not find any illegality and perversity in the impugned order, under challenge, much less, no ground is made out for interference. Accordingly the present revision petition dismissed.

Nothing observed herein above, shall be construed as an expression of opinion on the merits and demerits of pending suit.

29.04.2019
Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**