

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

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1. CR No. 4852 of 2017(O & M)
Date of Decision : 18.1.2019

Jaswinder Singh

.....Petitioner

v.

Sahibjit Singh and another

.....Respondents

2. CR No. 7122 of 2017(O & M)

Sahibjit Singh and another

.....Petitioners

v.

Jaswinder Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present : Mr. Vikas Bahl, Senior Advocate with
Mr. Akshay Rawal, Advocate, for the petitioner
(in CR no. 4852 of 2017)
for the respondent (in CR no. 7122 of 2017)

Mr. M.S. Khaira, Senior Advocate with
Mr. Ripudaman Singh Sidhu, Advocate, for the respondents
(in CR no. 4852 of 2017)
for the petitioners (in CR no. 7122 of 2017).

Amol Rattan Singh, J. (Oral)

By these two petitions the plaintiff and the defendant in the suit
out of which the impugned order arises, have both challenged the order (dated
26.5.2017) passed by the Appellate Court, i.e. the Additional District Judge,
Moga, by which the application filed by the plaintiff (i.e. the respondent in CR

no.4852 of 2017 and petitioner in CR no.7122 of 2017), under Order 39 Rules 1 and 2 CPC, stands disposed of by appointing a Receiver in terms of Rule 1 of Order 40 of the CPC, “for preserving and protecting the property in question.”

The property in dispute is stated to be a marriage palace constructed on land owned by the plaintiff. The building on it, as per the plaintiffs has been constructed by them, but as per the defendant it having been constructed with the money remitted by him to the plaintiffs in terms of an agreement dated 9.4.2014, which agreement the plaintiffs however dispute.

The plaintiffs, i.e. the petitioners in CR no. 7122 of 2017, have also challenged the order of the learned trial Court, i.e. the Civil Judge (Senior Division), Baghapurana, dated 6.1.2017, by which the aforesaid application under Order 39 Rules 1 and 2 CPC, filed by the plaintiff, was dismissed, whereas the application filed by the defendant under the same provision along with his counter claim, has been allowed, thereby injuncting the plaintiff from interfering in the possession of the defendant in the suit property after 31.3.2017, during the pendency of the suit.

It is to be specifically noticed that other than the Receiver appointed, who is stated to be an Advocate, a Committee has been constituted by the learned Appellate Court, consisting of the Receiver himself and one representative of both, the plaintiffs as also the defendant (with the parties also free to become members of the Committee themselves).

Though learned senior counsel appearing for both sides have raised various arguments as per the stand of each of the parties, in the opinion of this Court, they need not be discussed in detail, especially with one side relying upon an agreement which the other side at this stage is stated to be

denying; and consequently, in the opinion of this Court, with all issues to be still adjudicated upon in the suit, on merits, on appraisal of the evidence to be led by both sides, a better order could not have been passed by the learned Appellate Court, appointing the Receiver, who would be a part of the Committee aforesaid, to manage the affairs of the marriage palace during the pendency of the suit, with the monies earned through the marriage palace to be deposited by the Receiver in an account in a nationalized bank, (to be opened by him for that purpose).

Consequently, both these petitions, challenging the order of the learned Additional District Judge, appointing such Receiver and committee, are dismissed, with the impugned order upheld.

(AMOL RATTAN SINGH)
JUDGE

18.1.2019
Ashwani

Speaking/Reasoned	Yes/No
Reportable	Yes/No