

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

**CR No. 6261 of 2018
Date of Decision : 17.1.2019**

Sukhdev Singh and others **.....Petitioners**

v.

Gurudwara Sahib, Singh Sabha, Dashmesh Nagar, Lohgarh and others
.....Respondents

CORAM : HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present : Mr. H.S. Saini, Advocate, for the petitioners

Mr. Deepak Gupta, Advocate and
Mr. Vikash Garg, Advocate, for respondent No. 1

Mr. Naresh Gopal Sharma, Advocate, for
Mr. Mehardeep Singh, Advocate, for respondent No. 6

Amol Rattan Singh, J. (Oral)

Today learned counsel for respondent No.1 has pointed specifically to what is contained in the impugned order as follows :

“Even otherwise, as observed above that from the photographs, it does not appear that any construction is being raised, therefore, at this stage, it is not appropriate to pass any ex-parte stay order without hearing the opposite party. Matter would be properly adjudicated as and when defendants appear and file their written statement/reply and explain their stand.”

He, therefore, submits that as a matter of fact the application under Order 39 Rules 1 and 2 CPC has still not been decided by the learned trial Court.

Learned Counsel for the petitioners though initially tried to state

that the trial Court has already expressed its opinion that the plaintiffs have not been able to show their *locus standi*, and that as no construction is being raised and therefore it was not necessary to issue any interim order. However, I am not in agreement with that contention, because after undoubtedly having expressed a *prima facie* opinion as above, most definitely it is stated in the order that it would not be appropriate to pass any ex-parte stay order without hearing the opposite party.

Very obviously the last part of this sentence was very glaringly missed by this Court earlier.

Consequently, this petition is disposed of with a direction to learned trial Court to hear the respondents and thereafter to pass an appropriate order on merits, on the application under Order 39 Rules 1 and 2 CPC, within a reasonable period, during which time, of course, no construction shall be undertaken by the respondents, which learned counsel for the respondents also very fairly does not oppose.

(AMOL RATTAN SINGH)
JUDGE

17.1.2019

Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No