

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

**CR No. 7166 of 2016  
DECIDED ON: MARCH 28, 2019**

**MOHAN SINGH**

**.....PETITIONER**

**VERSUS**

**AJIT SINGH AND OTHERS**

**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.**

Present: Mr. B.S. Guliani, Advocate  
for the petitioner.

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**AVNEESH JHINGAN, J (ORAL)**

The present civil revision petition has been preferred against the order dated 30.10.2014 passed by Civil Judge (Jr. Division), Batala (hereinafter referred to as 'Civil Court') dismissing the application filed under Order XXXIX rule 2-A of the Code of Civil Procedure, 1908 (for short 'the Code') as well as order dated 04.07.2016 whereby, an appeal filed against the order dated 30.10.2014 was dismissed by the Appellate Court.

The facts in brief are that the petitioner and respondents are brothers. Respondents/plaintiffs filed a suit for declaration to the effect that they and petitioner/defendant No.1 are the actual consumer, holder and owners

in equal shares of 5 BHP tubewell connection bearing No. A-182 installed in the part or portion of the land 86 kanals 2 marlas bearing khasra Nos. 6R/16, 25/1, 7R/11, 12, 13, 14, 17, 18, 19, 20, 2111, 22/2, 24/2, 26, 36, 7R/23/1 khewat No.1, khatauni No.1 as mentioned in the copy of the jamabandi for the years 2003-04 and as situated at village Cheema Kalan, hadbast No. 69, Tehsil Batala, District Gurdaspur. Consequential relief of permanent injunction restraining the defendants/petitioner from transferring the tubewell connection in the exclusive name of the petitioner/defendant No.1 or shifting connecting or interfering in the use of the above mentioned tubewell connection by the respondents/plaintiffs illegally, forcibly and in any manner whatsoever.

During the pendency of afore-said suit a counter claim was filed by the petitioner/defendant No.1 restraining the respondents/plaintiffs from interfering in his peaceful possession. The suit of the respondents/plaintiffs was dismissed vide judgment and decree dated 06.03.2013 whereas the counter claim filed by the petitioner was allowed. During the pendency of suit, following interim order was passed by the Civil Court on 08.04.2011.

*“In view of above discussion, the defendants are restrained from transferring the electric tubewell connection in dispute in name of defendant No.1 in any manner till disposal of the suit and an ad-interim injunction filed by the plaintiffs is accordingly, partly allowed. On the other hand, the plaintiffs are restrained from causing any obstruction in the usage of electric motor connection in dispute by the defendant No.1 illegally and forcible, till final disposal of the case.”*

An application under Order XXXIX rule 2-A of the Code was moved by the petitioner alleging that the interim order dated 08.04.2011 was

violated by the respondents. The said application was dismissed as petitioner failed to prove that there was violation of the court order. Aggrieved of the said order, an appeal was filed, same was also dismissed. Hence the present civil revision petition.

Learned counsel for the petitioner submits that there was breach of peace, hence, it was an indication that the interim order dated 08.04.2011 passed by the Civil Court was violated.

The contention raised by learned counsel for the petitioner is not well founded.

The onus is on the petitioner to prove by a positive evidence that the court order was violated. There was not even an iota of evidence on record to establish the same.

No interference is called for in the impugned order. Accordingly, the present civil revision petition is dismissed.

**MARCH 28, 2019**  
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**(AVNEESH JHINGAN)**  
**JUDGE**

***Whether speaking/reasoned***      ***Yes/No***  
***Whether reportable***            ***Yes/No***