

227

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

CR No. 7996 of 2017

Date of Decision: 22.02.2019

Krishan Kumar Mishra

-Petitioner

Vs

Gram Panchayat and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Deepak Arora, Advocate,
for the petitioner.
Mr. Jagtar Kureel, Advocate,
for respondent No.1.

RAJ MOHAN SINGH, J. (ORAL)

Vide judgment and decree dated 25.08.2017 passed by Civil Judge (Junior Division), Chandigarh, suit filed by the plaintiff for possession by way of mandatory injunction was decreed against the defendant-petitioner along with recovery of mesne profit for unauthorized use and occupation of the premises in question.

In the appeal filed before the lower Appellate Court, Additional District Judge, Chandigarh stayed the operation of the judgment and decree dated 25.08.2017 passed by the trial Court, subject to payment of mesne profit by 10th of every month.

Notice of motion was issued on 12.12.2017 on the

premise that the property in question belongs to Prachin Shiv Mandir wherein defendant-petitioner was only a pujari without any remuneration.

Learned counsel for the petitioner submits that respondent No.2 has nothing to do with the petitioner being pujari of the Mandir. On 25.10.2018, last opportunity was granted to the petitioner to show the circumstances in which respondent No.2 was served on the address of the petitioner himself before the trial Court and during pendency of the present revision petition, he has not been served so far on the said address.

I have heard learned counsel for the parties.

De-hors the aforesaid inaction on the part of the petitioner in respect of service upon respondent No.2, factum of decree in respect of mesne profit can only be stayed subject to some conditions to be satisfied by the judgment debtor. If so advised, petitioner may furnish bank guarantee to the satisfaction of the lower Appellate Court in the pending appeal.

This revision petition is disposed of, accordingly.

22.02.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No