

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-4023-2019

Date of decision: 03.07.2019

Kulwant Singh

...Petitioner

V/s.

Kuldeep Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Bikramjit Aroura, Advocate for the petitioner.

RITU BAHRI, J. (Oral).

Learned counsel for the petitioner, while referring to the order dated 27.02.2019 (Annexure P-3) contends that trial Court after seeing the site plan produced by the defendants in their suit and by the plaintiff in his suit, has restrained the defendants from demolishing the water pipes laid by the plaintiff and further restrained from causing hindrance from repairing the water pipes. After passing of order dated 27.02.2019 (Annexure P-3), the petitioner wanted to repair the water pipes but the defendants were causing hindrances and in this backdrop, he approached SHO, P.S. Sadar Tarn Taran on 04.03.2019 and also approached SSP, Tarn Taran on 05.03.2019 and 05.03.2019 and this fact has been mentioned in para 3 of the application for grant of police help for implementation of the injunction order dated 27.02.2019 (Annexure P-6). Despite mentioning this fact in the application (Annexure P-6), the trial Court has declined to issue any direction for police help vide order dated 19.04.2019 (Annexure P-8) observing that the plaintiff did not place on record any document to show that the defendants had violated the order dated 27.02.2019.

Learned counsel for the petitioner refers to the judgment passed by this Court in ***Civil Revision No. 1112 of 2015 Ishwar and others V/s.***

Asha Ram and others 2015(3) PLR 578 to contend that sanctity of the orders of the Court has to be maintained and in this backdrop, the police help should have been granted to the petitioner. He has also referred to the judgment passed by this Court in **CR No. 264, 854 and 958 of 2016 Ramphal and another V/s. Santosh Bhagana and another** 2018(2) R.C.R. (Civil) 826, to support his contention.

This Court in the case of **Ishwar and others V/s. Civil Revision No. 1112 of 2015 titled as Asha Ram and others** 2015(3) PLR 578 allowed the Civil Revision whereby application for police help to protect the possession of the suit property under Order 39 Rule 1 and 2 had been dismissed. While allowing the revision, the Court had observed that it was not in dispute that the parties were in possession of the suit property and they were granted interim injunction. Application seeking police help should be allowed to enforce the injunction order and no-one can be permitted to take law in his own hand and violated the order passed. The court is to prevent the violation of interim injunction. Learned counsel for the petitioner has also referred to the judgment passed by this Court in **CR No. 264, 854 and 958 of 2016 Ramphal and another V/s. Santosh Bhagana and another** 2018(2) R.C.R. (Civil) 826, whereby the Court has dismissed the revision which was filed against the order passed by the Trial Court to grant police help apprehending violation of injunction granted by the trial Court. In para 14, it has been observed as under:-

“In my view, for determination of the violation of the interim order for the purpose of providing police assistance came to be debated upon before Hon’ble Supreme Court in **Meera Chouhan’s case** (supra) wherein in para 17 and 18 which read as under, the Hon’ble Supreme Court held that whenever parties violate order of injunction or stay order or act in

violation of the said order, the Court can, by exercising its inherent power, put back the parties in the same position as they stood prior to issuance of the injunction order or give appropriate direction to the police authority to render aid to the aggrieved parties for due and proper implementation of the orders passed in the suit and also order police protection for implementation of such order. Thus, the Court is not denuded of the power to order for restoration of possession to the party wronged:-

17. At the same time, it is also well settled that when parties violate order of injunction or stay order or act in violation of the said order the Court can, by exercising its inherent power, put back the parties in the same position as they stood prior to issuance of the injunction order or give appropriate direction to the police authority to render aid to the aggrieved parties for the due and proper implementation of the orders passed in the suit and also order police protection for implementation of such order.

18. It is also well settled that when in the event of utter violation of the injunction order, the party forcibly dispossesses the other, the Court can order restoration of possession to the party wronged.

It is a matter of record that respondent-defendant No.1 originally in para 7 of the written statement admitted possession of the petitioners-plaintiffs in the capacity of tenant but not in pursuance of the agreement to sell but the fact of the matter is that possession was not denied.”

Hon'ble the Supreme Court in the case of ***Meera Chauhan V/s.***

Harsh Bishnoi and another Civil Appeal No. 5783 of 2006, 2007(1) R.C.R.

(Civil) 597 has held that under Order 39 Rule 1, the Court has inherent jurisdiction to issue temporary order of injunction and in the event of utter violation of the injunction order, the party forcibly dispossesses the other, the Court can order restoration of possession to the party wronged and also order police protection for implementation of such order.

“In para 17 and 18, it has been observed as under:-

17. At the same time, it is also well settled that when parties

violate order of injunction or stay order or act in violation of the said order the Court can, by exercising its inherent power, put back the parties in the same position as they stood prior to issuance of the injunction order or give appropriate direction to the police authority to render aid to the aggrieved parties for the due and proper implement of the orders passed in the suit and also order police protection for implementation of such order.

18. It is also well settled that when in the event of utter violation of the injunction order, the party forcibly dispossesses the other, the Court can order restoration of possession of the party wronged.”

After going through aforesaid judgments, this petition is disposed of by giving direction to the SSP, Tarn Taran to look into the application made by the petitioner on 05.03.2019 (Annexure P-5) and to provide police help so that petitioner can get the water pipes repaired as per site plan which was perused by the trial Court while passing the order dated 27.02.2019 (Annexure P-3).

03.07.2019
Divyanshi

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No