IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.119

CR-6513-2019
Date of decision: 16.10.2019

Bhupinder Singh ....Petitioner

versus

Gurdial Singh and others ....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Gitish Bhardwaj, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition has been filed under Article 227 of the Constitution of India for issuance of a direction to the Trial Court to expeditiously decide the application filed by the petitioner under Order 39 Rules 1 and 2 CPC in Civil Suit No.1189 of 2019 - Mukhwinder Singh and others versus Gurdial Singh and another.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the petitioner alongwith respondents No.3 to 5 filed a suit seeking therein to restrain respondents No.1 and 2 from encroaching upon the land measuring about 07 marlas and from raising any kind of construction/changing its nature in any manner whatsoever. The property which was the subject matter of the suit was described in the head note of the plaint (for short – the suit property).

Inter alia the case set up by the petitioner/plaintiffs was that the suit property was Gair Mumkin Garha Khad which was not only being encroached upon by the respondents but they were also threatening to change its nature. Alongwith their suit the petitioner/plaintiffs had filed

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an application under Order 39 Rule 1 and 2 CPC seeking therein ad interim stay. Notice in the petitioner/plaintiffs' suit and interim application had been issued in which respondents No.1 and 2 had put in appearance and had been granted time to file their written statement. The matter is now listed before the Trial Court on 29.10.2019.

Since a direction to decide an application for interim stay on its merits would not prejudice either party but delay in its disposal could, the present petition is disposed of with a direction to the Trial Court to expeditiously dispose of the petitioner's stay application.

If the respondents are aggrieved by this order, they are at liberty to approach this Court through an appropriate application.

(DEEPAK SIBAL)
JUDGE

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

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