

116

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

CR-7541-2019 (O&M)

Date of Decision:-02.12.2019

Narinder Kaur

...Petitioner

Versus

Tarlochan Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:- Mr. Vikas Bali, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

Grievance of the petitioner is that during pendency of the trial, the Trial Court has specifically dismissed the application under Order 39 Rules 1 and 2 read with Section 151 CPC vide order dated 04.08.2015. No appeal was preferred against the said order. The suit was ultimately dismissed by the Trial Court vide judgment and decree dated 31.10.2017.

The plaintiffs-respondents have preferred first appeal before the Lower Appellate Court along with an application under Order 39 Rules 1 and 2 read with Section 151 CPC seeking the same interim prayer regarding alienation of the suit property. The

status quo has been granted by the Lower Appellate Court regarding alienation of the suit property and possession thereof as it existed on the date of passing of the order. Vide the impugned order dated 08.11.2019, the statement of learned counsel for the appellant was recorded that he would argue the case on 26.11.2019 and till then interim order be continued. This Court has been told that now the case is fixed for 04.12.2019 for arguments.

Learned counsel for the petitioner has submitted that in view of dismissal of the prayer regarding alienation, the Lower Appellate Court ought not to have granted the prayer as only an application under Section 41 Rule 5 CPC was maintainable during pendency of the appeal. At this stage, without commenting anything on the merits of the case, I deem it appropriate to direct the Additional District Judge, Ludhiana to make positive endeavour to hear the appeal on merits either on the date fixed i.e. 04.12.2019 or soon thereafter without granting unnecessary adjournments.

Petitioner would be at liberty to argue all these points before the Lower Appellate Court. In case the appeal is not to be decided on the date fixed due to some unforeseen facts, then the prayer of the petitioner be adverted to on merits without being influenced by any statement of fact recorded herein above.

In view of the above, the present revision petition

stands disposed of.

02.12.2019

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(Raj Mohan Singh)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No