

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.8211 of 2018(O&M)
Date of Decision: 01.04.2019

Jaipal

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. S.S. Goripuria, Advocate
for the petitioner.

Mr. Pritam Saini, Additional AG, Haryana with
Mr. Ajit Bhardwaj, AAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has preferred this revision petition against the order dated 11.09.2018 passed by Additional District Judge, Hisar vide which prayer for ad interim injunction during the pendency of the appeal was declined.

[2]. While issuing notice of motion on 03.12.2018, following order was passed:-

“Learned counsel for the petitioner contends that while dismissing the suit of the plaintiff, the factum of ownership of the plaintiff qua 253 sq. yards was not in dispute. However, alleged encroachment of

Government land was proved on the strength of a demarcation which according to learned counsel was not in consonance with the High Court Rules and Orders and under Section 101 of the Punjab Land Revenue Act. The application filed under Order 41 Rule 5(2) CPC for not demolishing the house till filing of the appeal was dismissed by the trial Court on 21.08.2018. Thereafter, similar application was filed by the petitioner along with appeal before the Lower Appellate Court. The said application has also been dismissed by the Lower Appellate Court vide order dated 11.09.2018. Perusal of both the orders would show that both the orders are stereotyped except the name of the Court. Learned counsel further contends that subject matter of the suit is legally required to be preserved during first appeal.

Notice of motion for 20.03.2019.

Till the next date of hearing, status quo regarding possession over the suit property as it exists today be maintained.”

[3]. Perusal of the record would show that title in favour of the plaintiff would remain debatable in view of demarcation got conducted by the respondents. The application filed by the petitioner under Order 41 Rule 5(2) CPC for preserving the property till decision of the appeal was dismissed by the Lower Appellate Court vide the impugned order.

[4]. During course of arguments, it has come to the notice of this Court that 07.05.2019 is the date fixed before the Lower

Appellate Court for arguments.

[5]. It would be just and appropriate to direct the Lower Appellate Court to decide the main appeal either on the date fixed or 15 days thereafter. Till such time, order of status quo shall remain in operation.

[6]. Disposed of.

01.04.2019

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Whether reportable

Yes/No

Yes/No