

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

**Civil Revision No.16434 of 2018 (O&M)
Date of Decision: 03.07.2019**

Harjinder Kaur and another

.....Petitioners

Vs

Satnam Singh

....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Anil Kumar Garg, Advocate
for the petitioners.

Respondent in-person.

RAJ MOHAN SINGH, J.

[1]. Petitioners have preferred this revision petition against the order dated 20.12.2018 passed by the Civil Judge (Jr. Divn.) Ludhiana vide which the application filed by the plaintiff/respondent for police help for compliance of order and the directions of the trial Court to get the vacant possession of ground floor of the suit property was allowed.

[2]. Brief facts are that the plaintiff/respondent filed a suit for possession of ground floor of the suit property by way of specific performance of the agreement to sell dated 17.05.2017 executed by the defendants/petitioners in favour of the

plaintiff/respondent for the sale of entire property/two floors constructed in the suit property as detailed in the headnote of the plaint. Prayers for mandatory injunction and permanent injunction were also made besides seeking recovery of *mesne* profits till the date of handing over the vacant possession of the ground floor of the suit property with interest. Along with the suit, an application under Order 39 Rules 1 and 2 read with Section 151 CPC for grant of *ad interim* injunction was also filed.

[3]. The trial Court vide order dated 27.04.2018 passed an interim order of *status quo* regarding possession for the suit property. Both the parties were directed to maintain *status quo* over the suit property except in due course of law till the next date of hearing. Plaintiff was also directed to obtain *dasti* summons in order to serve the defendants at his own responsibility, failing which the interim order was liable to be vacated automatically.

[4]. Thereafter, the aforesaid interim order was modified vide order dated 30.04.2018. In addition to the order dated 27.04.2018, both the parties were also directed to maintain *status quo qua* alienation of the suit property except in due course of law.

[5]. Thereafter, plaintiff filed an application on the ground

that the defendants have transferred the possession of the ground floor of the suit property in favour of Amarjit Singh and his wife Sarabjit Kaur being their tenants on 04.05.2018 in violation of the orders dated 27.04.2018 and 30.04.2018 passed by the trial Court. Defendants had the knowledge of the aforesaid orders.

[6]. The defendants along with the aforesaid tenants also filed false complaints to the Commissioner of Police, Ludhiana against the plaintiff and his family members. Those complaints were found to be false. Plaintiff also moved complaint against the defendants to the Commissioner of Police as well as to the Punjab Human Rights Commission, wherein report of the DGP, Punjab was sought. The DGP, Punjab submitted his report dated 30.08.2018. The enquiries were conducted by the Commissioner of Police, Ludhiana and Bureau of Investigation, Chandigarh Punjab on 20.08.2018 and 01.10.2018. On the basis of aforesaid incriminating material, the application in question was filed before the trial Court.

[7]. The suit for specific performance for the possession of ground floor of the suit property on the basis of agreement to sell dated 17.05.2017 executed by the defendants in favour of the plaintiff/respondent is pending. In the said suit, directions have been sought to execute the sale deed for the entire suit

property in favour of the plaintiff and for mandatory injunction directing the defendants to hand over the vacant possession of the suit property and for permanent injunction restraining the defendants from interfering into possession of the plaintiff over the first floor along with terrace of the suit property and from handing over the possession of the ground floor to anybody else except the plaintiff. Plaintiff-respondent is in possession of the first floor as well as terrace of the property, whereas defendants are in possession of the ground floor of the suit property.

[8]. Precisely for the aforesaid prayer, *ex parte* interim injunction dated 27.04.2018 was passed directing both the parties to maintain *status quo* regarding possession over the suit property and the order dated 30.04.2018 was passed in addition to the order dated 27.04.2018, thereby directing both the parties to maintain *status quo* regarding alienation over the suit property as well.

[9]. Defendants have transferred the possession of the ground floor in favour of Amarjit Singh and his wife Sarabjit Kaur on 04.05.2018 despite having knowledge of the orders dated 27.04.2018 and 30.04.2018. In the course of enquiries by the competent authorities on the basis of complaint filed by the plaintiff, it came to fore that the defendants came to know about the interim orders of the Court in the last week of April 2018

itself and handed over the possession of the ground floor to the alleged tenants namely Amarjit Singh and his wife Sarabjit Kaur in violation of the orders dated 27.04.2018 and 30.04.2018 passed by the trial Court. In the complaint made by the complainant to the Commissioner of Police defendants have admitted that they have rented out the part of the ground floor to Amarjit Singh and his wife Sarabjit Kaur. In the enquiries, it was found that due to the dispute between the plaintiff and defendants, the defendants have inducted Amarjit Singh and his wife Sarabjit Kaur as tenants and transferred the possession of the ground floor in their favour after passing of the order of *status quo* dated 27.04.2018.

[10]. The present application was filed by the plaintiff/respondent in view of violation of the order dated 27.04.2018 done by the defendants. The order of *status quo* has not been vacated, nor the same was challenged by the defendants. The suit is still at the stage of filing of written statement. The trial Court in view of the material on record allowed the application and directed the defendants to get vacated the ground floor of the suit property from Amarjit Singh and his wife Sarabjit Kaur within a week. Further directions were also issued to the officer in-charge of Police Station to do the needful in order to implement the order dated 27.04.2018, if the

defendants fail to get the ground floor of the suit property vacated within a week from the date of passing of the order, and to restore the possession regarding possession over the ground floor of the suit property as was existed on 27.04.2018 in order to keep the sanctity of the order dated 27.04.2018 passed by the trial Court.

[11]. Learned counsel for the petitioners by referring to **Meera Chauhan vs. Harsh Bishnoi & Anr., 2007(1) R.C.R. (Civil) 597** and **Mohd. Mehtab Khan and Ors. vs. Khushunma Ibrahim and Ors., AIR 2013 Supreme Court 1099**, submitted that inherent jurisdiction under Section 151 CPC must be exercised only in exceptional circumstances and the police help cannot be resorted to in ordinary circumstances. The only exceptional circumstances are those circumstances for which the civil Court has not provided any procedure for granting mandatory injunction. The Court is required to be satisfied with highest degree of satisfaction.

[12]. On the other hand, respondent while appearing in-person by relying upon upon **Satyabrata Biswas vs. Kalyan Kumar Kisku, 1994(2) R.C.R. (Rent) 169, Smt. Vandana Sehgal vs. The State & Ors., 2010(7) R.C.R. (Civil) 2905, Sumer Chand & Ors. vs. Santosh Kumari & ors. 2010(63)**

R.C.R. (Civil) 637, Century Flour Mill Ltd. vs. S. Suppiah & Ors., 1975 (Madras) 270, Ishwar & Ors., vs. Asha Ram & Ors., 2015(30) R.C.R. (Civil) 306 and Ramphal & Ors. vs. Santosh Bhagana & Ors., 2018(2) R.C.R. (Civil) 826

submitted that the Court passing an interlocutory order is well within its jurisdiction to get the same implemented by police help, if the same is violated by the wrong doer. The defendants cannot gain advantage in derogation of the rights of the parties, who were litigating originally. If tenancy is created despite the order of *status quo*, the Court is well within its jurisdiction to set it right by directing the defendants to implement the order of *status quo* and police help can also be given. Any act done in the teeth of the order of *status quo* is an illegal act and the parties can be relegated to the position as existed at the time of passing of the order of *status quo* by issuing an appropriate direction, even with the police help.

[13]. Respondent in-person further submitted that the police help under Order 39 Rule 2-A CPC can be granted for implementation of the order of *status quo* and the same can be resorted to in case of disobedience of the order of injunction. If disobedience of the order of *status quo* is to be prevented before disobedience is created, then under Section 151 CPC, the Court has ample powers, even to grant police help for

implementation of the order of *status quo*. Grant of police help cannot be termed as illegal. The Court is not helpless and cannot be a silent spectator in case where order of permanent injunction is sought to be violated by the defendants.

[14]. I have considered the submissions made by learned counsel for the parties.

[15]. The provisions under Order 39 Rule 2-A CPC, can be resorted to in case of disobedience of the order of injunction and however disobedience of the order is to be prevented before the disobedience is committed, then under Section 151 CPC, the Court has ample power even to grant police help for implementation of the order of status quo. The Court in its inherent jurisdiction can set aside the subsequent events which are in violation of the order of injunction. The inherent power of the High Court under Section 151 CPC is wide enough and is not even subject to any limitation, when disobedience is done. It will be the duty of the Court as a policy to set the wrong done and not allow the perpetuation and the wrong doing. It is also the duty of the Court to see that the breach should not continue and the 3rd party should not take undue advantage of the act of the defendants, who have violated the order. The Court is not supposed to wait till such injunction is violated and the party in whose favour the order is passed is pushed to the wall only

letting him to file an application under Order 39 Rule 2-A CPC.

[16]. Having perused the material on record, even the material which is sought to be placed on the record by the petitioners themselves in moving CM No.388-CII of 2019, I find that the petitioners had the knowledge of interim stay, as the date of tenancy in favour of Amarjit Singh and his wife Sarabjit Singh during enquiry proceedings before the Commissioner of Police was admitted by the defendants that they came to know about the interim order in the last week of April 2018, but alleged that the same was obtained from the Court by misleading facts and on the basis of forged documents/agreement and rent receipts. They further admitted that they were under fear that the plaintiff could take possession of the ground floor of the house, therefore, both the sisters of the defendants gave power of attorney to their relative Harmandeep Singh to look after the property. On 05.05.2018 , the ground floor of the suit property was rented out to Amarjit Singh through Harpreet Singh Dang, who was working in Municipal Corporation. Defendants stayed in Ludhiana for few days and thereafter they returned to their respective houses.

[17]. Along with the aforesaid application, the petitioners have produced copies of postal envelopes with reports. First envelope was issued to addressee Harjinder Kaur wife of Late

Sh. Pritpal Singh from the Court of Civil Judge (Jr. Divn.) Ludhiana and second envelope was issued to Devender Kaur wife of Late Sh. Harbans Singh from the Court. The report of the serving agency qua Devender Kaur is to the effect that the addressee did not meet on the address again and again and her son told that she has gone out. In case of Harjinder Kaur, it was observed that the intimation was served with signature of the agency dated 05.05.2018.

[18]. In view of admission made by the defendants in respect of the knowledge of the said orders, in my considered opinion, the satisfaction recorded by the trial Court in granting police help cannot be faulted with. The Court cannot be a silent spectator in case of violation of its order. Even in the judgment cited by the petitioners i.e. **Meera Chauhan's** case (supra), the Hon'ble Apex Court has found that the power of the Court to pass an order for the ends of justice and to prevent abuse of process of the Court can be exercised. The Court has inherent jurisdiction to issue temporary order of injunction in the circumstances which are not covered under the provisions of Order 39 CPC. Inherent powers under Section 151 CPC must be exercised in exceptional circumstances for which the Court lays out no procedure.

[19]. It is a settled principle of law that in case of violation of

order of injunction, the Court can exercise its inherent power to put back the parties in the possession as they stood prior to issuance of order of injunction or to pass an appropriate direction to the police authorities to render necessary help to the aggrieved party for due and proper implementation of order of injunction and also order police protection for implementation of the same.

[20]. In view of aforesaid legal position, the stand taken by the petitioners cannot be appreciated. There is no illegality committed by the trial Court in passing the impugned order. This revision petition is found to be devoid of merits and is dismissed as such. All pending civil misc. application are disposed of.

July 03, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No