

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 989 of 2020

Date of Decision: 11.02.2020

Gurudwara Gurdarshan Parkash, Head Quarter Damdami Taksal (Jatha Bhindranwala Mehta), Amritsar and another

.....Petitioners

Vs.

Rashpal Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Bikramjit Singh Bajwa, Advocate,
for the petitioners.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioners challenge the order of the learned District Judge, Hoshiarpur, dated 04.02.2020, by which the application of the petitioners seeking transfer of the suit filed by the petitioners against the respondents, has been rejected.

The grievance of the petitioners was that that arguments in the application filed by the present petitioners under the provisions of Order 39 Rules 1 and 2 of the CPC had been addressed before the trial court in July 2019, with that application still not having been decided finally, despite the fact that five months had gone by (at the time when the application was filed).

The reply of the respondent-defendants, to the transfer application before the District Judge, was to the effect that the matter was adjourned on 18.07.2019 after arguments by counsel for the respondents (defendants) were heard, but thereafter since both counsel could not appear together in court, further arguments were not advanced and on some dates the Presiding Officer could not take up the matter due to

pendency of other cases.

It was further contended that with an order of *status quo* operating, the applicants (present petitioners) were not prejudiced in any manner.

The learned District Judge, upon considering the aforesaid pleadings, has noticed in the impugned order that comments of the Presiding Officer were also called for by her, a perusal of which showed that the petitioners (plaintiffs) had advanced arguments, with the defendants not having advanced arguments due to which the application was not being decided.

It was further noticed that otherwise there were no allegations against the Presiding Officer, which would require the transfer of the case from that court to another court.

Consequently, while dismissing the application, the trial court had been directed to dispose of the application of the present petitioners (under Order 39 Rules 1 and 2 of the CPC) preferably within a period of one month from the date of the order of the District Judge, i.e. within one month of 04.02.2020.

Learned counsel for the petitioners submits that the petitioners' stand is prejudiced, inasmuch as arguments having been addressed on their behalf now almost 07 months ago, such arguments may even be fully remembered by the Presiding Officer, and in fact after the impugned order was passed, the matter came up for hearing before that court today, with it having been adjourned to 13.02.2020 for final orders, upon a statement having been made by the counsel for the respondents (defendants) that they did not wish to address any further arguments.

That being so, the essential grievance of the petitioners being that the arguments were addressed by their counsel before the trial court in July 2020, i.e. 7 months ago, it is likely that the Presiding Officer may forget at least some of them, this petition is disposed of with a direction that the petitioners shall submit their written arguments to the trial court by 14.02.2020, i.e. by the coming Friday, after

which the trial court would fix an appropriate date for orders on the application itself, (if of course the contention of learned counsel for the petitioners is correct to the extent that today the matter has been adjourned by that court to 13.02.2020 for final orders).

Consequently, the trial court would simply adjourn the matter on 13.02.2020, to enable counsel for the petitioners to file written arguments before it, after which it would fix an appropriate date for a decision on the application under Order 39 Rules 1 and 2 of the CPC, as already directed hereinabove.

If the contention of counsel for the petitioners is incorrect to the extent that the matter has not been adjourned by that court for final orders to 13.02.2020, on the aforesaid application, that court would then in any case accept the written arguments by counsel for the petitioners (plaintiffs) and also granted 3 to 4 days time to counsel for the respondents to submit written arguments if that counsel so wishes, after which the application filed under the provisions of Order 39 Rules 1 and 2 of the CPC, would be finally decided by that court.

Naturally, with only written arguments to be now submitted, no request for adjournments shall be entertained by that court, unless the orders of that court today, i.e. 11.02.2020, are other than those directing the matter to be posted for final orders.

In such case, the application under Order 39 Rules 1 and 2 of the CPC shall be decided positively, in any case, within a period of one month from today.

If there are any genuine compelling reasons for the application not to be decided within that period, the trial court would send a report to this court by March 10, 2020, giving therein such reasons.

February 11, 2020

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Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)
JUDGE

Yes
No.