

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.1891 of 2020 (O&M)

Date of Decision: June 30, 2020

Suman Dutta

...Petitioner

Versus

Indian Oil Corporation Limited & others

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Jagan Nath Bhandari, Advocate,
for the petitioner.

Mr. Pawan Mutneja, Advocate,
for the respondents.

MANOJ BAJAJ, J. (Oral)

Plaintiff-Suman Dutta has invoked the power of superintendence of this Court by filing the above revision petition under Article 227 Constitution of India to challenge the order dated 10.01.2020, whereby his prayer for ad-interim injunction was declined by the Civil Judge (Junior Division), Panipat in a suit for declaration brought by him against defendants/respondents, wherein the charge sheet No.P/77722 dated 26.02.2019 along with the inquiry report etc. have been challenged.

Notice of motion in this petition was issued on 08.06.2020 and the following order was passed by this Court:-

“The case has been taken up for hearing through video-conferencing.

Learned counsel for the petitioner contends that the petitioner is still in service. Vide order dated 02.01.2020 passed by the respondent-Corporation, the petitioner was

advised to return the amount received from Corporation towards encashment of 77 nos. of compensatory off and towards dishonest claims for extended duty (Rs.1,74,975/-) which has been established in the inquiry. Petitioner was directed to refund the aforesaid amount, failing which, Panipat Refinery & Petrochemical Complex was to initiate action for recovery of the aforesaid amount. Learned counsel further submits that the exact recoverable amount has not been quantified, but the respondent-Corporation has deducted 50% per month towards standard deduction from January 2020 and till date, respondent-Corporation has recovered an amount of Rs.2,50,000/- as against unquantified amount of Rs.1,74,975/-. The deductions are claimed to be more than 70% of the total salary which are not permissible due to Covid-19.

Notice of motion for 16.06.2020.

Notice re: stay as well.”

Pursuant to the said order, Mr.Pawan Mutneja Advocate appeared on behalf of the respondents and sought time for filing reply on 16.06.2020. Today again, more time is prayed by him on the ground that because of COVID-19, reply which has been prepared, has not been received by him.

At this stage, learned counsel for the petitioner has prayed for interim stay on the ground that the deductions are being made by the respondent-defendants every month from his salary. It is contended by him that in case the interim injunction is not granted in his favour, the purpose of the suit would be defeated. According to him, in case the injunction is granted, no irreparable loss would be suffered by the defendants.

During the course of hearing, it is not disputed by Mr.Mutneja that against the total amount of ₹ 4,09,203.74P, a sum of ₹ 2,47,952.75P has already been recovered. According to him, a sum of ₹ 1,61,250/- still

remains to be recovered from the petitioner. It is further not disputed by the learned counsel for the parties that no written statement or reply to the application under Order 39 Rule 1 & 2 CPC filed by the plaintiff, has been filed on behalf of the defendants.

After hearing the learned counsel for the parties, this Court finds that the trial Court proceeded to decline the interim injunction only on the ground that the pleadings of the parties are not complete. It needs to be noted here that the impugned order was passed in January, 2020 and admittedly till date, no written statement has been filed by the defendants. Even reply to the present revision petition has not been filed despite opportunities granted by this Court.

The grant or refusal of interim injunction is governed by three cardinal principles, i.e., prima-facie case, balance of convenience and irreparable loss or injury. Now, if the case of the petitioner is tested on these principles, this Court finds that no irreparable loss would be suffered by the defendants if the recovery of the remaining amount is stayed by this Court as the amount to be recovered from plaintiff already stands quantified by defendants. The balance of convenience also lies in favour of the plaintiff as the refusal of injunction would render his suit meaningless. In these facts, this Court finds that since the validity and correctness of the charge sheet and inquiry etc. is under scrutiny of the trial Court, therefore, plaintiff has a *prima-facie* case as well for grant of ad-interim injunction.

In view of the above, the revision petition is allowed and the respondents/defendants are restrained from recovering the remaining amount from the plaintiff during the pendency of the civil suit. As a result of this order, the application filed by petitioner under Order 39 Rule 1 & 2

CPC also stands disposed off.

**June 30, 2020
ramesh**

**(MANOJ BAJAJ)
JUDGE**

**Whether speaking/reasoned
Whether Reportable:**

**Yes/No
Yes/No**