

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

C.R. No. 2023 of 2020 (O & M)

Date of decision: 25.08.2020

201

Kimmy Bindra and another

....Petitioner(s)

Versus

Sameer Bindra and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Sapan Dhir, Advocate,
for the petitioners.

Mr. C.M. Munjal, Advocate,
for respondents no. 2 to 5.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

The present revision petition filed under Article 227 of the Constitution of India is directed against the order dated 03.07.2020 passed by the Civil Judge, Chandigarh.

On 11.08.2020, a query was put to counsel for the petitioner as to how the petition is maintainable against the order passed by the Civil Judge since an appeal would lie against the said order.

Counsel for the petitioner insisted that the application under Order 39 Rule 1 and 2 was still pending and only applications under Section 151 as such were decided. It was submitted that the case was adjourned for filing of the written statement while referring to an order dated 09.03.2020. Resultantly, a report had been called from the Presiding

Officer through the District Judge, Chandigarh as to whether application under Order 39 Rule 1 and 2 had been disposed of or not.

Now, report dated 24.08.2020 has been received from the Presiding Officer in which, it has been clarified that in the interim period, an application had been filed on 01.07.2020 under Section 151 CPC and the same was taken up on 02.07.2020 and thereafter, arguments were heard on 03.07.2020. Both the applications under Section 151 CPC and under Order 39 Rule 1 and 2 were disposed of. The relevant part of the report reads thus:-

“1. That the civil suit titled as “Kimmy Bindra & Another Vs. Sameer Bindra & Others”, bearing No. CHCH020006902020, was received as entrustment by the court of undersigned on 25-02-2020. Notice of the suit along with stay application was order to be served upon defendants for 29-02-2020. On 29-02-2020, Mr. Rajesh Sood, appeared on behalf of all the defendants and the matter was adjourned for 06-03-2020. Thereafter, the matter was taken up on 06-03-2020, 07-03-2020, 09-03-2020, 23-03-2020 and was adjourned for 14-07-2020 in due course.

2. Meanwhile, on 01-07-2020, file was taken up on an application u/s 151 CPC, moved by counsel for plaintiff for grant of Ex-parte -ad-interim order or Directing staying the alienation/sale deed/transfer/Mortgage etc of all the properties involved in this litigation including House No. 21, Sector 6, Panchkula during the pendency of the present suit and for issuance of such other order or direction, in favour of the plaintiffs/applicants, which this Hon'ble court may deem fit and proper in the facts and circumstances of the case. Fact regarding filing of present application was brought into his notice of

counsel for defendants, who requested for grant of adjournment for filing of reply to the said application and written statement. On request case was adjourned to 02-07-2020.

3. *On 02-07-2020, written statement, reply to application under order 39 Rule 1 & 2 and reply to application under Section 151 CPC was filed. Arguments on both the applications were heard and the case was adjourned to 03-07-2020, for orders on the said applications.*

4. *On 03-07-2020, application under section 151 CPC and the application under order 39 Rule 1 & 2, were disposed off vide joint detailed order. Reference of the same is made in Zimini order dated 03-07-2020 and detailed order dated 03-07-2020. Hence, it is respectfully submitted that the application under section 151 CPC and application under Order 39 Rule 1 & 2 were jointly disposed off vide order dated 03-07-2020, by the court of undersigned after hearing arguments of both the parties in detail.*

This report is hereby submitted by undersigned as desired by your goodself.”

Faced with this situation, counsel for the petitioner now submits that he may be permitted to file an appeal before the Lower Appellate Court against the order in view of the above facts.

Accordingly, the present revision petition is dismissed with the aforesaid liberty.

25.08.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No