

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

114

**CWP-9887-2020 (O&M)
Decided on : 15.07.2020**

Tikaram @ Tekchand

... Petitioner

Versus

State of Haryana and another

... Respondents

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

Present: Mr. Tekchand Sharma, petitioner in person.

(The proceedings are being conducted through
video conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

The present writ petition has been filed under Articles 226/227 of the Constitution of India challenging the interim order dated 25.06.2020 (Annexure P-1) passed by the Civil Judge (Junior Division), Hodal, by the defendant.

The said order was passed in a suit filed by for permanent injunction (Annexure P-2), as notice had been issued to the defendant for the said date. The petitioner had also filed an application under Order 7 Rule 11 CPC for dismissal of the suit, which has been adjourned, as the reply to the application has to be filed by the plaintiff. Vide the interim order, both the parties were restrained from changing the nature of the suit land by raising boundary wall over the valuable front portion of the said land. Status quo regarding possession has also been directed to be maintained.

Thus, it is apparent that the litigation has just been initiated and is at a nascent stage. The petitioner has not even filed the written statement and wishes to get the said order quashed. The order is yet to be confirmed on the filing of the reply to the application for temporary injunction under Order 39 Rule 1 & 2 read with Section 151 CPC. But as noticed an application for rejection of the plaint has been filed.

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-2-

It is, thus, apparent that the petitioner has alternative remedies as such before the lower Courts if order of temporary injunction is confirmed, as the litigation is only at the initial stage.

The petitioner has also brought to the notice that the criminal proceedings as such were quashed *inter se* the parties by this Court on the basis of compromise and the respondent is misusing the order as such. If that is so, it is always open to the petitioner to bring all these facts to the notice of the Trial Court regarding the conduct of the plaintiff. Needless to say they would necessarily be taken into account when final arguments are addressed on the application for temporary injunction under Order 39 Rule 1 & 2 read with Section 151 CPC. It is the settled principle that once there is an alternative remedy available, the petition under Article 227 will not be entertained. Reference can be made to the judgment of Apex Court in **United Bank of India Vs. Satyawati Tondon & others 2010 (8) SCC 110**.

Accordingly, the present petition is not maintainable at this stage and the same is dismissed with the above said observations, in limine.

JULY 15, 2020
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No