

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CR-2153-2020 (O&M)
Date of Decision:-26.10.2020

Harvinder Singh ... Petitioner

Versus

Boota Singh and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Bhavyadeep Walia, Advocate for the petitioner.

Ms. Sudeepti Sharma, Addl. A.G., Punjab.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner/plaintiff Harvinder Singh assails order dated 6.8.2020 (Annexure P-1) whereby his application for restoration of his possession of a shop has been dismissed. The petitioner also assails another order dated 6.8.2020 (Annexure P-2) vide which the trial Court had declined the prayer of the petitioner/plaintiff for providing police help to remove the lock from the shop of the petitioner.
2. The petitioner/plaintiff had filed a suit for grant of permanent injunction to restrain defendant Boota Singh from interfering into his peaceful and lawful possession of a shop situated at Bilaspur main road, District Moga. The petitioner/plaintiff averred in his plaint that he is running the business

of medicines under the name and style of Vivek Medical Store in the premises in question which he had taken on rent from Boota Singh-Defendant in the year 2004. It is averred that although the petitioner had been regularly paying the rent and had also increased the same but the defendant demanded an increase of rent of ₹ 3,000/- and also demanded an advance of ₹ 1 lac which the petitioner/plaintiff could not pay and on account of which the defendant threatened to dispossess him.

3. Along with the plaint, the petitioner/plaintiff also moved an application under Order 39 Rules 1 and 2 CPC seeking *ad-interim* injunction wherein the learned Court of Additional Civil Judge (Senior Division), Nihal Singh Wala directed both the parties to maintain *status quo* regarding possession of the shop in question vide order dated 22.4.2020.
4. During the pendency of the aforesaid suit, the petitioner/plaintiff moved an application seeking issuance of a direction to SHO Police Station Nihal Singh Wala to remove the lock allegedly installed by the respondent/defendant Boota Singh on the shop in question. Another application was filed for restoration of the possession of the petitioner/plaintiff of the shop in question and it was alleged that on 22.5.2020 when the petitioner/plaintiff went to open his shop, he was not permitted by the respondents to open the same and who had installed a lock on the shutter of the shop in violation of *status quo* order.
5. Both the aforesaid applications were dismissed by the learned trial Court vide order dated 6.8.2020, which has been assailed by filing the instant revision petition.

6. The learned counsel for the petitioner has submitted that once an order directing the parties to maintain *status quo* had been passed by the trial Court on 22.4.2020, the respondents were supposed to comply with the same and since they had violated the same by dispossessing the petitioner and not permitting him to enter the shop in question, the trial Court was within its competence to restore the possession by removing the lock installed on the shop in question. It has, thus, been submitted that the trial Court fell in error in dismissing both the applications.
7. I have considered the aforesaid submissions.
8. At the outset, it needs to be noticed that while in the suit, there was only one defendant i.e. Boota Singh but the instant application had been filed against several persons apart from Boota Singh. The application against such respondents, in any case, was not maintainable being not there in the array of parties in the suit. Further, a perusal of order dated 22.4.2020 would show that no specific finding or opinion has been expressed as regards the factum of possession of either of the parties. The trial Court, however, directed both the parties to maintain *status quo* regarding possession. In these circumstances, in case the petitioner alleges that he has been dispossessed from the premises in question, it would be expected of the petitioner/plaintiff to lead cogent and convincing evidence to establish his possession. In case of violation of any *ad-interim* injunction, the appropriate remedy for the petitioner would be to have recourse to provisions of Order 39 Rule 2 CPC, if so advised. In the absence of any specific and unambiguous finding regarding possession, the police cannot be directed to restore possession of the plaintiff. This Court does not find any infirmity in either of the impugned orders dated 6.8.2020 and both are hereby upheld.

9. Finding no merit in the revision petition, the same is hereby dismissed.

26.10.2020

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No