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

CR-2225-2020

Date of decision-08.09.2020

Mahavir Hooda and another**...Petitioners**

Vs.

Amit Jaglan and another**...Respondent****CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Sunil Kumar Dhanda, Advocate for the petitioners.

MANOJ BAJAJ, J.

By means of this petition under Article 227 Constitution of India, the petitioners (defendants No.2 and 3) have invoked the revisional jurisdiction of this Court to challenge the decision dated 08.07.2020 passed by Civil Judge (Junior Division) Gurugram, whereby the application filed by plaintiff (respondent No.1) under Order XXXIX Rules 1 and 2 Code of Civil Procedure for grant of ad interim injunction was allowed. Further, it has been prayed that a direction be issued to the Appellate Court to decide the appeal filed by the petitioners against the order dated 08.07.2020 within a period of one week.

Briefly, the facts leading to the revision petition are that plaintiff (respondent No.1) brought Civil Suit No.50 of 2020 for permanent injunction against the defendants (petitioners and respondent No.2), wherein it was pleaded that through lease agreement dated 28.05.2020, executed between the parties, the suit property was taken in possession by him for residential use from co-owners. According to the plaintiff, the defendants threatened to dispossess him from the property in question forcibly and

therefore, on the said cause of action the suit was filed with a prayer for a decree for permanent injunction to restrain the defendants and their associates from interfering in his peaceful possession over the land in question. Alongwith the suit, an application under Order XXXIX Rules 1 and 2 Code of Civil Procedure was also filed by the plaintiff with a prayer for grant of ad interim injunction, during the pendency of the suit.

The notice in the suit was issued to the defendants who contested the same by filing the separate written statements, and reply to the application. The trial Court after examining the pleadings of the parties and considering the argument proceeded to allow the application vide its order dated 08.07.2020.

Aggrieved against the said decision dated 08.07.2020, a Civil Miscellaneous Appeal No.96/2020 was preferred by defendants No.2 and 3 (petitioners), on 05.08.2020 and the same was taken up for hearing on the same day. The Appellate Court issued the notice in the appeal for 14.08.2020 and on the said date, after appearance of the respondents, the matter was adjourned to 19.08.2020 for arguments. Thereafter, on joint request, the case was adjourned to 26.08.2020, and later it was fixed for arguments on 28.08.2020.

The Appellate Court heard the arguments on 28.08.2020 and fixed the appeal for 03.09.2020 for orders. Though, it has been pleaded in the grounds of revision that the order dated 08.07.2020 passed by the trial Court is bad in law and deserves to be set aside, but at the same time it is also averred that remedy of appeal also stands adopted by the petitioners. According to the petitioners, the plaintiff is not interested in the decision of the appeal, therefore, there are compelling circumstances for the petitioners

Today, when the case was taken up for hearing, learned counsel for the petitioners stated that the appeal filed by the petitioners has been accepted by the Additional District Judge, Gurugram vide order dated 03.09.2020 and the order dated 08.07.2020 has been set aside. He submits that in view of this, the present revision petition is rendered infructuous.

No doubt, in view of the statement of the learned counsel for the petitioners, nothing survives for adjudication in the present revision petition. But at the same time, this Court finds that the petitioners have shown undue haste in approaching this Court by filing this petition without a valid cause of action. Admittedly, the order dated 08.07.2020 passed by Civil Judge (Junior Division) Gurugram was put under challenge by the petitioners through the statutory appeal and all the zimni orders passed by the Appellate Court have been placed on record. A perusal of the orders reveals that the appeal was dealt with expeditiously without any unnecessary adjournment. It is also evident from the paper-book that the revision petition was filed on 02.09.2020 i.e. just a day before when the case was fixed for orders by the appellate court, however, the petition was returned by the Registry raising an objection regarding its maintainability. The petition was re-filed on 03.09.2020 with a request to put up the same before the Bench. It is clear that once the petitioners had already adopted the remedy of appeal, they had no occasion to approach this Court to assail the order dated 08.07.2020 simultaneously and that too at the stage when the decision of the Appellate Court was about to be delivered. Thus, the petitioners have wasted the precious time of this Court, therefore, they deserve to be saddled with costs. Accordingly, the revision petition is dismissed as infructuous, however, petitioners shall deposit costs of Rs.25,000/- with District Legal

Trial Court is directed to ensure the recovery and deposit of the costs.

(MANOJ BAJAJ)
JUDGE

08.09.2020
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No