

CR No.2336 of 2020 (O&M)
Date of Decision : 01.10.2020

Jagdish

...Petitioner

Versus

Gram Panchayat village Gawalra and another

...Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGHPresent : Mr. Sandeep Siwach, Advocate
for the petitioner.

FATEH DEEP SINGH, J (ORAL)

The petitioner-Jagdish, who is initially a plaintiff before the trial Court of learned Civil Judge, Senior Division, Panipat had filed a suit for declaration etc. regarding his land and along with it has sought consequential relief of permanent injunction restraining the defendants from interfering in the suit property. Along with the suit, a separate application under Order 39 Rule 1 and 2 read with Section 151 CPC was also filed seeking stay of dispossession of the plaintiff.

It is the reticence of the learned trial Court in not disposing it off the application of stay and rather venturing into a miscellaneous application moved under Order 7 Rule 11 CPC by the defendants, the disposal of the stay application has been put

to hold and which led the petitioner to invoke the Revisional jurisdiction of this Court by virtue of Article 227 of the Constitution of India.

Upon hearing Mr. Sandeep Siwach, learned counsel for the petitioner and after perusal of the records, what is apparent from the documents on the record shows that notice of the case was issued on 15th July, 2019 for 22nd July, 2019 and on which date, the defendants now respondents did appear and did not file either written statement or reply to stay application and instead moved an application under Order 7 Rule 11 CPC. Rather than adjudicating upon the injunction application, the trial Court as is apparent from these records took up the application under Order 7 Rule 11 CPC for reply etc. and forget about the injunction application which the defendants obviously did not respond to, apparently to unduly prolong the same and in spite of more than eight hearings, did not deem it appropriate to look into this relief which was of emergent nature totally in oblivion to the spirit of Order 39 Rule 3-A CPC. The very essence of which emphasizes that such an application needs to be adjudicated expeditiously. Though, no injunction was granted but it was incumbent upon the trial Court to have ensured that this application is disposed off either way as it might result in causing irreparable loss and injury to the plaintiff-applicant. The courts needs to ensure that there is no

misuse of the process so as to defeat the ends of justice and ensure prompt redressal of such matters which is also the intent of law laid down in “**Ramrameshwari Devi and others versus Nirmala Devi and others, 2011(8) SCC 249**”.

Without further adverting on to this process that is being carried on by the learned trial Court, this Court deems it expedient to allow the present revision petition and thereby directing the trial Court to dispose off the injunction application under Order 39 Rule 1 and 2 read with Section 151 CPC moved by the petitioner-applicant within one week from the date of receipt of certified copy of this order.

The revision petition stands disposed off with the aforesaid directions.

(FATEH DEEP SINGH)
JUDGE

01.10.2020
Manpreet

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No