

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 433 of 2021

Date of Decision: 25.03.2021

Gurdeep Singh and others

....Petitioner(s)

Versus

Swaran Singh and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Krishan Singh Dadwal, Advocate, for the petitioners.

Mr.Ranjit Saini, Advocate, for respondent Nos. 1 to 4.

Mr. Pankaj Gupta, Addl. Advocate General, Punjab,
for respondent Nos. 5 to 7.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present revision petition has been filed under Article 227 of the Constitution of India seeking a prayer to set aside the order dated 11.02.2021 (**Annexure P-10**) by which the application filed by the petitioners for preponing of the date fixed in the application under Order 39 Rule 1 & 2 CPC has been dismissed.

While advertng to the facts of the case the learned counsel for the petitioner has submitted that the petitioner had filed a suit for permanent injunction restraining the defendant Nos. 1 to 4 from cutting and removing the trees illegally and forcibly except in due course of law till the dispute between the parties was fully decided by the Civil Court, Mukerian.

Alongwith the plaint, an application under Order 39 Rule 1 & 2 CPC read with Section 151 CPC was filed seeking an ad-interim injunction for restraining the respondents/defendants no.1 to 4 from cutting and removing the trees from the suit land till the final decision of the title by the Civil Court and respondent Nos.6 and 7 (Forest Department) be also restrained from issuing any permit in favour of respondent Nos.1 to 4. The suit was filed on 07.01.2021 and in view of the urgency of the matter the service of notice under Section 80 CPC upon the official respondents was dispensed with for the time being and notice in the application was issued by the Civil Court on 07.01.2021 for 19.01.2021. On 19.01.2021 the Block Officer had appeared on behalf of defendant Nos.6 and 7 and the matter was however, adjourned for 10.05.2021 for filing of the power of attorney as well as written statement on behalf of defendant Nos.6 and 7 and notice to the remaining defendants were also issued for the next date. Thereafter, vide Annexure P-5 the petitioner filed an application for early hearing of the case in view of the urgency involved in the present case because vide Annexure P-4 an undertaking was taken by the Forest Department from both the parties that in case there is no interim order from the Court then permission would be granted for cutting of the trees and this Annexure P-4 was dated 14.01.2021 and 3 months would expire on 13.04.2021. The application for early hearing was taken up on 29.01.2021 and notice was issued for 03.02.2021 by the Civil Court and on 03.02.2021, the learned counsel for the respondent Nos.1 to 4 had appeared and the matter was adjourned for 04.02.2021 for filing reply to the application for early hearing. However, vide impugned order dated 11.02.2021 (Annexure P-10) the application for early hearing was dismissed on the ground that no urgency

was involved in the present case for preponing of the present case.

The learned counsel further submitted that in fact there was a grave urgency involved in the present case because in case the Forest Department grants permission to respondent Nos.1 to 4 to cut the trees then it would cause irreparable loss to the petitioners and apart from the same, no prejudice would be caused to the respondent Nos.1 to 4 in case the matter is preponed by the Civil Court and the application be heard and decided, in accordance with law.

Mr. Pankaj Gupta, learned Additional Advocate General, Punjab, has however stated that the State of Punjab has got no objection in case the Civil Court prepones the date for deciding the application under Order 39 Rule 1 & 2 CPC.

Mr. Ranjit Saini, learned counsel, who has appeared on behalf of respondent Nos.1 to 4 has submitted that in view of the heavy pendency of cases before the Civil Court, no ground is made out for preponement.

I have heard the learned counsel for the parties.

From the subject matter of the application, which has been filed under Order 39 Rule 1 & 2 CPC, it cannot be said that there is no urgency for deciding the same. The civil suit was filed for seeking injunction from cutting and removing of the trees except in due course of law and along with the plaint, an application under Order 39 Rule 1 & 2 CPC was filed. Vide Annexure P-4 the Forest Department has granted only 3 months time on 14.01.2021 for grant of permission unless there is no order from the Court. The said 3 months expires on 13.04.2021, whereas, the Civil Court had adjourned the application for 10.05.2021.

Although this Court while exercising jurisdiction under Article 227 of the Constitution of India would not interfere in the fixing of dates of the cases by the Civil Court in normal course, however, in the facts and circumstances of the present case, the apprehension of the learned counsel for the petitioner that in case the application under order 39 Rule 1 & 2 CPC is not heard before 13.04.2021 and in case the permission is granted by the Forest Department for cutting of the trees then the entire subject matter of suit would become infructuous.

Therefore, considering the totality and circumstances of the present case, the present petition is allowed. It is directed that the Civil Court shall prepone the application under Order 39 Rule 1 & 2 CPC filed by the petitioner and hear the same within a period of 2 weeks from today.

It is made clear that nothing contained in the present order would mean anything on the merits of the case or application pending before the Civil Court.

The trial Court shall intimate the date of hearing to all the learned counsel for the parties before the trial Court regarding the date of hearing.

25.03.2021

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No