

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

106

**CR-1193-2021(O&M)
Date of Order:28.06.2021**

RAMESHWAR

..Petitioner

Versus

JAI KUMAR AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Chirag Kundu, Advocate,
for the petitioner.

ANIL KSHETARPAL, J(Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Through this revision petition, the plaintiff invoked the jurisdiction under Article 227 of the Constitution of India for setting aside the order dated 07.06.2021, which reads as under:-

“Notice issued to defendant No.3 received back served through brother. Case called several times since morning but none has appeared on behalf of defendant No.3. It is already 4:15 p.m. Further wait not justified. Hence defendant No.3 is hereby proceeded ex-parte.

Memo of appearance filed on behalf of defendants No.1, 2, 4 to 7. At this stage learned counsel for plaintiff requested for ad-interim injunction restraining from defendants from changing the nature of suit property or raising construction over the suit property. It is further argued that plaintiff is owner in possession to the extent of 1/3rd share. Relied upon Jaspal Kaur & Another, Civil Revision No.2025 of 2020 D/d 16.07.2020; Akhtar Husain versus Zulfiqar Husain decided on 05.03.2021. Learned counsel for defendants has argued that the suit property has already been given by plaintiff Rameshwar by way of written family settlement dated 09.10.1990. Photocopy of said family settlement placed on record. As such no relief is made out. Heard. Plaintiff has filed the present suit for separate possession by way of partition. Keeping in view the peculiar facts and circumstances, this court deems fit to grant opportunity to the defendants for filing written statement. Now the case is

*adjourned to 01.07.2021 for filing written statement.
File be sent to the Ld. Civil Judge (Sr. Division), Panipat
for 01.07.2021 for assignment purpose.”*

It is apparent from the perusal of the order that the application under Order 39 Rule 1 & 2 CPC for grant of temporary injunction is still pending and no final order thereon has been passed. The suit is now fixed for 01.07.2021.

Keeping in view the aforesaid facts, no ground to exercise the jurisdiction under Article 227 of the Constitution of India is made out.

However, the plaintiff shall be at liberty to request the trial court to decide the application under Order 39 Rule 1 & 2 CPC on the date already fixed i.e. 01.07.2021.

With these observations, the revision petition is disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

June 28, 2021
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(ANIL KSHETARPAL)
JUDGE

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