

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

CR-2121-2020.
Date of Decision:-19.01.2021.

Balwant Singh

..... Petitioner

Versus

Axis Bank

..... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Narinder Singh Dadwal, Advocate for the petitioner.

None for the respondent-Bank.

SANJAY KUMAR, J. (Oral)

By way of this revision filed under Article 227 of the Constitution, the plaintiff in the civil suit bearing No.CS 307 of 2020 on the file of the learned Civil Judge (Senior Division), Fatehgarh Sahib, sought a direction to the said Court to decide his application filed under Order 39 Rules 1 and 2 CPC within a time frame.

The subject suit was filed for a permanent injunction restraining the defendant-Bank, the respondent herein, from interfering with the possession of the petitioner/plaintiff over the Hyundai I 20 car bearing Registration No.PB-23-U-3741 and from dispossessing the petitioner-

plaintiff of the said vehicle illegally and forcibly and without due process of law. An interlocutory application was filed therein under Order 39 Rules 1 and 2 CPC seeking an *ad interim* injunction restraining the bank from interfering with the petitioner/plaintiff's possession over the said car.

By order dated 14.08.2020 passed in this revision, this Court took note of the case-law cited by the petitioner-plaintiff in support of his contention that the Bank could not take back possession of the financed vehicle by way of coercive measures even if there was default in repayment of the loan and restrained the bank from taking forcible possession of the financed car except in accordance with the due process of law.

Despite service of notice, there is no representation for the respondent/defendant-Bank.

As the petitioner-plaintiff only sought a direction to the trial Court to decide his injunction application expeditiously, no grounds are made out for this Court to entertain this revision for adjudication on merits. It is for the trial Court to consider the subject injunction application on its own merits and in accordance with law in the first instance.

The trial Court would have to be mindful of the recent case-law of the Supreme Court on the subject issue, viz., the decision rendered in **Magma Fincorp Limited Vs. Rajesh Kumar Tiwari [(2020) 10 SCC 399]**, while considering the subject injunction application.

The learned Civil Judge (Senior Division), Fatehgarh Sahib, shall consider the petitioner's injunction application on its own merits and in accordance with law, uninfluenced by the interim relief granted by this

Court in the present revision. The said application shall be decided as per due procedure as expeditiously as possible and preferably within two months from the date of receipt of a copy of this order. The interim protection afforded by this Court, *vide* order dated 14.08.2020, shall remain operative till such decision.

The civil revision is accordingly disposed of.

No order as to costs.

(SANJAY KUMAR)
JUDGE

January 19, 2021.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.