

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 2329 of 2021

Date of Decision: October 12, 2021

Nisha Devi

.....Petitioner

Versus

Mahabir Singh and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Abhimanyu Singh, Advocate for the petitioner.

LISA GILL, J

Though matters were being taken up through physical hearing mode today, this matter has been taken up through video conferencing on specific request of learned counsel and in terms of circular dated 14.09.2021.

This revision petition has been filed challenging interim order dated 24.09.2021 passed by learned trial Court in an application under Order 39 Rule 1 and 2, in the civil suit filed by the petitioner. Admittedly petitioner's application under Order 39 Rule 1 and 2 is still pending before the learned trial Court. Petitioner is aggrieved of learned trial Court not granting ad interim injunction for restraining the defendants from dispossessing the petitioner of suit property, pending decision of application under Order 39 Rule 1 and 2.

It is contended that suit for declaration to the effect that petitioner-plaintiff is the owner in possession of the house in question, has been filed by her against the defendants, which includes her parents and brother. Petitioner claims the house to be ancestral property. Plaintiff is residing in the house in question alongwith minor daughters and is entitled to 1/10th share of the property. It is submitted that manifest injustice shall be caused to the petitioner in case, impugned order is not set aside. Ad interim injunction should have been granted by the learned trial Court pending final disposal of petitioner's application under Order 39

Rule 1 and 2, as otherwise the application shall be rendered infructuous and an exercise in futility.

Heard learned counsel for the petitioner.

Learned trial Court has specifically observed that the documents referred to by the plaintiff at this stage do not indicate the property in question to be ancestral in nature and neither indicate possession of the plaintiff over the suit property and that at this stage, there is nothing on the file to afford relief of ad interim injunction.

The matter is stated to be listed before the learned trial Court on 12.11.2021. Learned counsel, at this stage, is unable to point out any other document in addition to the ones which may have been before the learned trial Court but submits that there are certain other documents, which clearly indicate possession of the petitioner over the suit property. However, details of the same are not forthcoming.

Keeping in view the facts and circumstances of the matter, I do not find any ground to interfere in this matter at this stage.

Revision petition is, accordingly, dismissed. Needless to say, it is open to the petitioner to approach the learned trial Court with any additional documents, which may be available with her to indicate her possession over the suit property. Learned trial Court shall look into the same and pass appropriate order if at all any such documents are brought before the learned trial Court. An endeavour be made by the learned trial court to finally decide application under Order 39 Rule 1 and 2, expeditiously.

October 12, 2021

Rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.