

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

Sr. No.118

CR-2444-2021 (O&M)
Date of decision : 27.10.2021

Rama Rani

..... Petitioner

VERSUS

Tejwinder Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. B.S. Baath, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner is the plaintiff. She has filed a suit for injunction restraining the defendant from interfering in her possession of the suit property. Alongwith suit, an application under Order 39, Rules 1 & 2 CPC was also filed and an ad interim injunction was granted by the trial Court in her favour. Subsequently, an application for restoration of possession was filed with the allegation that the plaintiff-petitioner had been dispossessed forcibly and in violation of the order of ad interim injunction. This application has been dismissed by the trial Court on the ground that evidence would need to be led to come to a conclusion that the plaintiff-petitioner was in possession of the suit property on the date of filing of the suit. The observation is in the light of the stand of the defendant that in fact, possession of the suit property was with him.

Learned counsel for the petitioner submits that the application has been rejected and thus, even though, the evidence leads to the conclusion that the plaintiff-petitioner was in possession on the date of the suit, the Court would be unable to pass an order of restoration of possession. Thus, the impugned order be modified to the extent that the application be heard

In my opinion, if, the trial Court comes to the conclusion that the plaintiff-petitioner had been dispossessed forcibly during the pendency of the suit, it would have inherent powers to order restoration of possession. However, by way of abundant caution, I modify impugned order dated 27.09.2021 (Annexure P-8) to the extent that the application does not stand disposed of. It is kept pending for a decision alongwith suit.

The order is being passed ex parte as the rights of the defendant-respondent are not adversely affected by the same.

The revision petition stands disposed of.

(SUDHIR MITTAL)
JUDGE

27.10.2021

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No