

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

(Proceedings conducted through video conferencing)

CR No.2731 of 2020(O&M)

Date of decision: 4.1.2021

Omaxe New Chandigarh Developers Pvt. Ltd.Petitioner

VERSUS

Ambika Realcon Builders Pvt. Ltd. and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Shailendra Jain, Senior Advocate with
Mr. Sidharath Goyal, Advocate for the petitioner.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 28.12.2020 passed by the Civil Judge (Junior Division) (D), Kharar whereby notice is ordered to be issued to defendants-caveators as well as their counsel for 05.01.2021 in a civil suit instituted on 28.12.2020.

Counsel for the petitioner would argue that in view of urgency of the matter, suit was filed during Winter Vacations, as such, the Court should have given 2/3 days' notice to the caveators even if the Court had decided to do so. It is further submitted that the caveat was filed by the defendants/respondents on 28.12.2020 and in that case counsel for caveators should have ensured his presence when the matter was taken up by the Court on 28.12.2020.

Section 148A of the Code of Civil Procedure, 1908 (in short 'the Code') deals with right to lodge a caveat. Sub-section (3) thereof says that where, after a caveat has been lodged under sub-section (1), any

application is filed in any suit or proceeding, the Court, shall serve a notice of the application on the caveator.

Taking into consideration the aforesaid provision, there is no illegality committed by the Court in issuance of notice to defendants-caveators. The case is now fixed for 05.01.2021. The matter with regard to grant of exemption from issuance of notice under Section 80(2) of the Code and interim injunction is required to be decided by the Court concerned, seized of the matter. The present petition stands disposed of with a direction to the Court below to decide the applications seeking exemption from issuance of notice under Section 80 and grant of interim injunction immediately after due notice to defendants-caveators. The Court would also ensure that defendants-caveators should not be allowed to play to prolong hearing of applications for grant of interim relief.

JANUARY 4, 2021

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no