

COCp-472-2022

Date of Decision : 14.03.2022

Charanjit Julka and others

...Petitioners

versus

M/S D.D. Resorts Pvt. Ltd and others

...Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Nitin Thatai, Advocate for the petitioner.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Prayer in the instant petition is for initiating proceedings against the respondents for intentional and willful defiance of order, Annexure P/1 dated 26.11.2021 passed by the learned Civil Judge (Jr.Division), Gurugram in Civil Suit No.3694-2021.

3. A perusal of order dated 26.11.2021 passed by the learned Civil Judge (Jr.Division), Gurugram in Civil Suit No.3694-2021, reveals that the respondents were restrained from carrying out further construction on the suit property except in due course of law i.e. after getting prior permission from the competent Authority.

4. Learned counsel contends that order dated 26.11.2021 i.e. Annexure P-1 was continued and is in force till date but respondent No.1 has carried out construction on the suit property without obtaining permission from the competent Authority in intentional and willful disobedience / breach of order dated 26.11.2021 and that the learned Civil Judge (Jr. Division) Gurugram has issued notice on the application under

respondents, case is listed for hearing on 28.04.2022 but no decision has been taken on the application under Order 39 Rule 2A CPC till date.

6. I have considered the submissions of learned counsel and in view of the position noted above, deem it appropriate to relegate the petitioner to pursue the application already filed by him under Order 39 Rule 2A CPC.

7. As far as grievance of the petitioner qua decision on the application under Order 39 Rule 2A, CPC not having been taken by the learned trial Court, it needs no mention that the petitioner is at liberty to move an appropriate application before the learned trial Court and in case any such application is moved by the petitioner, this Court is sanguine that appropriate action would be taken in respect thereto in accordance with law expeditiously.

8. Accordingly, in view of the petitioner already having availed his remedy under Order 39 Rule 2A CPC, no action is called for against the respondents under the Contempt of Courts Act, 1971 and the instant petition is disposed of as above.

(B.S. Walia)
Judge

14.03.2022

rajesh

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