

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

210

CR No.2147 of 2020
DATE OF DECISION : 2nd FEBRUARY, 2022

Bimla Gupta

.... **Petitioner**

Versus

Shri Mohan Gupta & others

.... **Respondents**

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

=====

In virtual Court

=====

Present : Mr. Manoj Swarup, Senior Advocate with
Mr. Rose Gupta, Advocate; Ms. Vidisha Swarup, Advocate &
Mr. Neelmani Pant for the petitioner.

Mr. Harsh Bunker, Advocate &
Mr. Bahul Bunker, Advocate for respondent No.3.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

This is the petition filed by the petitioner under Article 227 of the Constitution of India praying for setting aside impugned order dated 23.07.2020 passed by learned Additional District Judge, Faridabad (Annexure P-8) whereby while upholding the order passed by the trial court, the prayer for granting ad-interim stay has been declined.

Vide order dated 01.12.2021 this court had sought report from the trial Court whether the application before the trial court filed in the matter under Order 39 Rules 1 and 2 CPC has finally been decided or it is still pending. The report has now been received from the trial court which says that only the aspect of *ad interim* injunction, pending final decision of application under Order 39 Rules 1 and 2 CPC, was decided

by the trial court. Thereafter the parties have not addressed the arguments for final disposal of the said application. Hence, the application filed under Order 39 Rules 1 and 2 CPC is still pending for final decision.

Since the application under Order 39 Rules 1 and 2 CPC has been pending for a long time and has not yet been decided by the trial court, therefore, it would be appropriate that the trial court is directed to decide the application, finally, within some time bound frame.

The counsel for the petitioner has submitted that there is an *ad interim* order granted by this court in favour of the petitioner at the time of motion hearing and the said order be continued if this court intends to direct the trial court to pass final order on the application under Order 39 Rules 1 and 2 CPC. However, this court does not deem it appropriate to express any opinion or to pass any order on the aspect; lest the trial court should get prejudiced on any aspect and in any manner. This court intends to leave everything open and wide for the trial court so as to take an independent decision. Hence, it is not appropriate for this court to remand the matter with continuation of any interim order, as such.

In view of the above, the present petition is disposed of. The impugned order dated 23.07.2020 (Annexure P-8) passed by the Additional District and Sessions Judge, Faridabad is also set aside and the trial court is directed to pass final order on the application moved by the petitioner, under Order 39 Rules 1 and 2 CPC; within a period of ten days from today. The parties are directed to appear before the trial court on 7th February, 2022.

All the pending applications, if any, stand disposed of accordingly.

2nd FEBRUARY, 2022
‘raj’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>