

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

Sr. No.111

CR-2169-2021 (O&M)
Date of decision : 02.03.2022

Rajbir Singh

..... Petitioner

VERSUS

Virender Singh

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. S.K. Panwar, Advocate for
Mr. Ravi Malik, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

CM-2151-CII-2022

This application has been filed for permission to place on record Annexures P-5 to P-7.

For the reasons stated therein, the application is allowed and aforementioned Annexures are taken on record.

CR-2169-2021

The defendant has preferred this revision against the orders of the Courts below, whereby, the plaintiff's application under Order 39 Rules 1 and 2 CPC has been allowed and appeal thereagainst has been dismissed.

The case of the plaintiff is that he had purchased five trucks from the defendant and had paid the agreed amount. He has also undertaken to pay the future instalments as the trucks were financed. Suit for declaration was filed seeking declaration of title of the trucks as well as for possession of the same as the defendant had allegedly taken back the possession forcibly before filing of the suit. Alongwith the plaint, an application under Order 39 Rules 1 and 2 CPC was also filed, wherein, *ad interim* temporary injunction and mandatory injunction was prayed. The

prayer for mandatory injunction has been rejected, but *ad interim* temporary injunction has been granted restraining the defendants from plying the trucks during the pendency of the suit as well as from alienating the same.

Learned counsel for the petitioner has submitted that the document (Annexure P-6) shows that the entire consideration amounting to Rs.05,50,000/- was not paid. Only a sum of Rs.03,50,000/- was paid and thus, the plaintiff was not entitled to grant of temporary injunction.

The argument cannot be accepted because the document (Annexure P-6) is an extract of the statement of account. It does not contain the complete details of the account. Moreover, this argument was never raised before the Courts below. Further, whether the complete consideration has been paid or not, is a matter of evidence and shall be decided in the suit. The argument is, thus, misconceived and is rejected.

In view of above, the revision petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

02.03.2022
Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No