

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

124

CR-3871-2022

Date of decision: 15.09.2022

Bhupinder Singh

.....Petitioner

Versus

Pritpal Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Brijeshwar Singh Bhalla, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is impugning the order dated 27.05.2022 (Annexure P-6) passed by learned Additional District Judge, Moga whereby his application filed under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short, 'the Code') in Appeal No.CA/74/2021 titled as 'Bhupinder Singh Vs. Pritpal Singh and another' was dismissed.

Learned counsel for the petitioner submits that the interim order was passed in ignorance of the relevant material facts and it being contrary to the settled principles of law, deserves to be set aside. Learned counsel submits that the disposal of appeal would not take much time and during its pendency if the injunction is not granted, the same would lead to multiplicity of proceedings. He further submits that the Lower Appellate Court overlooked the fact that even the Trial Court had granted interim injunction during the pendency of the suit. Learned counsel also submits that the petitioner has a good case and since the balance of convenience also lies in his favour, interim injunction may be granted, otherwise the petitioner would suffer irreparable loss.

I have heard learned counsel and perused the relevant material on record.

It would be relevant to observe here that one Kartar Singh filed a Civil Suit No.1880 dated 25.10.2018 titled as 'Kartar Singh Vs. Pritpal Singh' against the defendant of the present suit by way of specific performance with respect to the same suit property which is the subject matter of the present suit. The said suit was decreed and thereafter the executing Court through the Local Commissioner directed registration of the sale deed in favour of Kartar Singh.

In the instant case also suit for specific performance was instituted qua the same suit property with alternate relief of recovery. The same was dismissed by the learned Trial Court, however, alternate relief of recovery was given. The petitioner herein is seeking restrain qua alienation of the property which had been ordered to be executed by the Civil Court through the Local Commissioner and it is evident that in the garb of the application filed under Order 39 Rules 1 and 2 of the Code, he is in fact trying to stall the proceedings before the executing Court and for stopping the execution of the decree in favour of Kartar Singh.

It would also be pertinent to point out that it is a matter of record that the petitioner herein had filed his objections before the executing Court which were dismissed. So in the circumstances, there is no question of grant of interim injunction to the petitioner.

In the circumstances, since the suit property is being alienated in pursuance to the orders of the executing Court as discussed hereinabove, the Lower Appellate Court cannot be faulted with for

declining the relief of interim injunction.

It would be pertinent to observe here that the suit land is being alienated in execution proceedings by observing due process of law, therefore, the relief of temporary injunction in any case would be of no consequence.

As a sequel to the above, the instant revision petition being devoid of any merit is dismissed in *limine*.

15.09.2022

Vinay

(MANJARI NEHRU KAUL)

JUDGE

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