

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

CR-3985-2022 (O&M)

Date of Decision: September 19, 2022

Surinder Kansal and another

...Petitioners

VERSUS

Rakesh Rani and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Arpandeep Narula, Advocate
for the petitioners.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 13.06.2022 (Annexure P-1) passed by learned Civil Judge (Jr. Divn.).

It is now submitted by learned counsel for the petitioners that the petitioners had filed a suit for declaration, thereby, asserting petitioner-plaintiff No.1 to be owner in possession of the properties, as detailed in the headnote of the plaint and also issuance of permanent injunction to restrain the respondents/defendants, from interfering in their possession. Besides, the same, even mandatory injunction, thereby, directing defendants No.1 and 2 to execute formal sale deeds of the property in dispute, in favour of the plaintiffs, had been sought.

The copy of the plaint has been placed on record as Annexure P-2. Annexure P-3 is the application under Order 39 Rule 1 and 2 read with

had made a prayer for issuance of ad interim injunction.

In pursuance of the suit having received by entrustment, during the vacation period, an order dated 13.06.2022 was passed by the concerned Court, which reads as follows:-

'Suit received by entrustment alongwith application to entertain the present case being of urgent nature, during the vacation. In view of the averments mentioned in the application in hand stands allowed. Report of Reader seen. It be registered. Alongwith the suit the ld. Counsel for the plaintiff filed application u/o 39 Rule 1 and 2 CPC. Heard on point of exparte stay, no ground is made out to grant exparte stay and this Court deems it fit to hear the opposite party first to grant any injunction on the application. Now, notice of the suit as well as stay application be issued to defendants for 07.07.2022 on filing copy of plaint and copy of stay application. Dasti summons if required be taken.'

Perusal of the aforesaid order reveals that no reason, as such, has been assigned, as to what was the necessity to defer the issuance of interim injunction, without issuance of notice to the defendants. However, it was required on the part of the lower Court to state in brief, the reasons for the adjournment further, while denying the ex-parte relief, at the initial stage.

Not doing so, jeopardizes the right of the petitioner-plaintiff, who had knocked the door of the Court.

Also, it is pertinent to mention that, as disclosed in the grounds of revision petition, service of respondents-defendants has yet not been effected. On enquiry by the Court, it has been disclosed that the next date fixed is 21.10.2022.

Considering the reasons, having not been assigned by the lower Court, the present revision petition is hereby allowed and order dated

No.PBLDA00004122022 is set aside.

The concerned Court shall consider an application for ad interim injunction afresh, on the next date already fixed and pass a speaking order.

The present order is being passed, without notice to the respondents and without affording them any opportunity of hearing, as the order under revision was passed, at the inception stage of the suit and as this Court has not gone into the merits of the case, one way or the other.

September 19, 2022
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No