

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.5644 of 2022

Date of Decision: December 02, 2022

Jagdish Kumar

...Petitioner

Versus

Inderjit Kaur & others

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Anupam Bhardwaj, Advocate,
for the petitioner.

MANOJ BAJAJ, J.

Petitioner has filed this revision petition under Article 227 Constitution of India to challenge the order dated 30.09.2022 passed by the Appellate Court, Amritsar, whereby the order dated 02.08.2022 passed by the Civil Judge (Junior Division), Ajnala dismissing his application under Order 39 Rule 1 & 2 CPC was upheld.

Learned counsel has argued that plaintiff has filed a suit for declaration to challenge the ownership of defendants in respect of the suit property as well as the ejectment order dated 24.09.2012 passed by the Rent Controller, Ajnala, whereby the petition for ejectment filed by the defendant against the plaintiff was accepted. He submits that along with the suit, an application for grant of ad-interim injunction was also filed, which has been wrongly dismissed by the trial court as the defendants are bent upon to dispossess him forcibly. He submits that the Appellate Court has also failed to exercise the jurisdiction in proper manner while dismissing his appeal through the impugned order dated 30.09.2022. According to the learned

counsel, in the given facts and circumstances of this case, the interim protection deserves to be extended to the plaintiff, otherwise the purpose of filing the suit would be defeated. He prays that the impugned orders be set-aside and the application under Order 39 Rule 1 & 2 CPC be accepted.

During the course of hearing, it is not disputed by the learned counsel that the ejectment order dated 24.09.2012 passed by the Rent Controller was upheld by the Appellate Authority when his appeal was dismissed on 24.04.2014. He fairly states that the revision petition filed by the petitioner against the landlord-defendant is pending adjudication before this court.

After hearing the learned counsel and considering the above background, it is apparent that the first round of litigation between the parties under the Rent Act stands decided in favour of the defendants by the Rent Controller and against the said decision, appeal filed by petitioner-plaintiff was also dismissed. No doubt, the revision against the said decision is pending adjudication before this court, but in this backdrop, no *prima-facie* case exists in favour of the plaintiff. The Appellate Court, while affirming the order dated 02.08.2022 passed by the Civil Judge (Junior Division), Ajnala, made the following observations:-

“11. In order to claim relief in the present case, it was for the appellant-plaintiff to show by pleadings and documents that a prima facie case exists in his favour, balance of convenience lies in his favour and that he will suffer irreparable loss if the injunction is not granted in his favour.

It is admitted case of the parties that Rent Petition No. 35/5.8.2006/14.6.2008 “Inderjit Kaur Vs. Jagdish Kumar and others” was decided by the court of Sh. Kulbhushan Kumar, learned Additional Civil Judge (Senior Division)-cum-Rent Controller, Ajnala whereby plaintiff and proforma defendant

No. 3 were directed to vacate the shop/property constructed on the part of the property bearing Khasra No. 194 Min, situated at Ajnala, Tehsil Ajnala, District Amritsar. It is also admitted fact that present appellant preferred appeal against the said ejectment order dated 24.9.2012, which was decided against him by the court of Sh. Munish Arora, ld. Appellate Authority, Amritsar vide judgment dated 24.4.2014. Learned Counsel for the parties have fairly conceded during the course of arguments that appeal against the said ejectment order is pending before the Hon'ble High Court and no stay with regard to the staying proceedings of the said ejectment order has been granted. Once matter is pending before the Hon'ble High Court with regard to the property in dispute and the matter is subjudice, then the this Court is of the view that no prima facie case exists in favour of the appellant-plaintiff and balance of convenience also does not lie in his favour. Even otherwise, perusal of the sale deed dated 10.1.1975 executed by Kuldeep Kaur in favour of Gurdial Chand shows that shop was not sold. Hence, this Court does not find any merits in this contention raised by the ld. counsel for the appellant-plaintiff.”

A reading of the above would indicate that the case of the plaintiff stands decided by the Appellate Court on all the three relevant principles, which govern the refusal or grant of ad-interim injunction under order 39 Rule 1 & 2 CPC. The order does not suffer from any illegality or impropriety, therefore, no interference is warranted.

Dismissed.

December 02, 2022
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No