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

CR-498-2023 (O&M)

Date of decision: 24.01.2023

Sushila and others

...Petitioners

Vs.

Ashok Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vijay Dahiya, Advocate
for the petitioners.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside order dated 22.12.2022 (Annexure P-1) passed by the Ld. Additional Civil Judge (Sr. Division), Tosham, whereby *ad-interim* injunction was granted to the plaintiff (respondent No.1 herein).

2. Brief facts of the case are that respondent No.1/plaintiff filed a suit for grant of permanent injunction restraining the petitioners/defendants from interfering into his alleged possession over the suit land admeasuring 100 kanal 01 marla, situated within the revenue estate of Village Bhera, Tehsil Tosham, District Bhiwani. Along with the suit, the plaintiff had also filed an application under Order 39 Rules 1 & 2 CPC seeking *ad-interim* injunction.

3. Upon notice, petitioners/defendants appeared on 22.12.2022 before the Ld. Trial Court who opposed the said application on various grounds and *inter*

alia pleaded that tubewell connection in the name of the predecessor-in-interest of the defendants was wrongly given to the plaintiff and in this regard a separate suit was filed and order of partition was also challenged therein and the present petitioners were in possession of the suit land. They further pleaded that mustard crop was sown upon the suit land and they were looking after the said suit land as well.

4. Vide impugned order, the petitioners/defendants were restrained from interfering into the possession of the suit land till further orders and the matter was adjourned to 06.03.2023 for filing written statement and reply to injunction application. Hence, the instant revision petition by defendants.

5. I have heard the learned counsel for the petitioners and gone through the records.

6. It is contended that the impugned order has been passed without opportunity to the petitioners to file their reply to the injunction application or written statement in answer to the plaint; that in the police complaint Annexure P-3, the plaintiff himself had stated the petitioners had occupied his land and were not allowing him to enter the same and that the partition proceedings relied upon by the plaintiff had been illegally decided against the dead person Sunder (predecessor-in-interest of the petitioners) without impleading his LRs.

7. Perusal of the impugned order shows that thereby, the defendants have been restrained till further orders from interfering with the plaintiff's possession of the disputed land and the learned Trial Court has adjourned the matter to 02.03.2013 for filing the written statement and reply to the injunction application. It is quite obvious that the petitioners have been given opportunity to file their reply to the injunction application and the written statement in answer to the plaint; the injunction application has not yet been disposed of by the learned trial Court and

that the impugned order is only tentative and interim in nature meant to enure till disposal of the injunction application by the learned Trial Court. In the circumstances, I am of the opinion that instead of filing the instant petition before this Court, the petitioners should have filed their reply to the injunction application and the written statement in answer to the plaint along with supporting material to enable disposal of the injunction application by the learned trial Court. It was/is open to the petitioners to take all available pleas in defence before the learned trial Court including the plea to the effect that in his Police complaint Annexure P-3 the plaintiff himself had stated that the petitioners had occupied his land and were not allowing him to enter the same. Such plea if raised would naturally be taken into consideration by the learned trial Court while deciding the injunction application. At this stage, this Court is refraining from making any comment on the said plea of the petitioners, so that the learned trial Court takes its own independent view of the things while deciding the injunction application. However, in the light of aforesaid facts and circumstances, it seems just and proper to direct the parties to maintain status quo regarding possession of the suit land till disposal of the injunction application by the learned trial Court. To that extent, the impugned order stands modified.

8. Disposed of, with aforesaid directions.

(ARUN MONGA)
JUDGE

January 24, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No