

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.113

CR-1751-2023

Date of Decision: 24.03.2023

ALISH

....Petitioner

Versus

BALWANT SINGH AND OTHERS

..... Respondents

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr. Anil Rathee, Advocate
for the petitioner.

ARCHANA PURI, J (Oral)

Challenge in the present revision petition is to the order dated 03.03.2023 (Annexure P-6), passed by learned Lower Appellate Court, whereby the Civil Misc. Appeal filed against the order dated 15.02.2023, passed by Civil Judge, Senior Division, had been allowed and time period of 15 days from 22.03.2023, has been given to the Lower Court to decide the application under Order 39 Rules 1 and 2 CPC.

Mr. Ram Kumar Saini, Advocate, has made appearance on behalf of respondent No.1 and 2, and filed his Vakalatnama, which is taken on record.

Heard.

As culled out from the paper book, initially, the respondents No.1 and 2/plaintiffs, Balwant Singh and Daljeet Singh, had filed a suit for separate possession for metes and bounds, in respect of 1/4th share each of the plaintiffs, *vis-a-vis*, the land, as detailed in the head note of the plaint.

Along with the suit, an application under Order 39 Rule 1 and 2 CPC was

filed. Thereupon, the notice was issued. However, the notice was received back served and vide order dated 15.02.2023, thereby giving the reasoning, it was stated that no ground is made out for passing any restraint order against the respondent, at this stage. Qua the said order, Misc. Appeal was filed by respondents No.1 and 2/plaintiffs, upon which, impugned order dated 03.03.2023 was passed, whereby certain observations were made in Paragraph No.13, about the change of nature of the property by way of raising of the construction. However, a direction was given by learned Lower Appellate Court to the concerned Court to dispose of the application within a period of 15 days from 22.03.2023.

In this backdrop, learned counsel for the petitioner as well as respondent No.1 and 2, submits that since the written statement had not been filed at the time, when the impugned order was passed, it shall be appropriate for all the parties concerned, if the direction is given by this Court for disposal of the application under Order 39 Rules 1 and 2 CPC on merits, within a period of three weeks from today onwards, without being influenced by the observations, so made in the impugned order.

Considering the aforesaid fact situation, when the written statement has been filed, after passing of the order dated 15.02.2023, it shall be appropriate, if the aforesaid application is disposed of expeditiously by learned Lower Court, after obtaining written statement from the concerned defendants.

The next date stated to be fixed before learned Lower Court is 29.03.2023, for filing of written statement of the parties. However, the written statement shall be filed on the next date of hearing by the respondents and thereupon, learned Lower Court shall hear the arguments

and dispose of the application under Order 39 Rules 1 and 2, within a period of one month from today onwards.

However, the aforesaid application shall be disposed of uninfluenced by any observations made in the orders dated 15.02.2023 and 03.03.2023.

Accordingly, the instant revision petition stands disposed of in the aforesaid terms.

24.03.2023
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(ARCHANA PURI)
JUDGE

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