

CR-2208-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2208-2023 (O&M)

Date of decision: April 17, 2023

Iwona Monika and another

....Petitioners

versus

Avtar Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Karan Bhardwaj, Advocate for petitioners.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside impugned order dated 14.10.2022 (Annexure P-5) passed by learned Additional District Judge, SAS Nagar in CA-135-2022 titled as "Avtar Singh V/s Iwona Monika and others" whereby operation of judgment/ decree dated 22.09.202 (Annexure P-2), was stayed.

2. Learned counsel for petitioner/plaintiffs would contend that Petitioners/ plaintiffs filed Civil Suit No.38 of 2018 for declaration to the effect that they are owners in possession of suit property, along with consequential relief of permanent injunction. Vide judgment/ decree dated 22.09.2022 (Annexure P-2), learned trial Court decreed the suit declaring plaintiffs to be owners and in possession of suit land and also restraining defendant/respondents herein permanently from alienating, selling, gifting or changing nature of suit property. Plaintiffs had also filed a caveat application before learned District Judge, Mohali. Respondent No.1 filed appeal against aforesaid judgment/ decree. Vide impugned order dated 14.10.2022 (Annexure P-5), learned Appellate Court stayed the operation of aforesaid judgment/decree.

3. I have heard learned counsel for petitioners and gone through the record.

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4. Impugned order dated 14.10.2022 (Annexure P-5) passed by learned Additional District Judge, SAS Nagar is premised, *inter alia*, on the following reasoning:

“Since there are fairly arguable points involved in the appeal, therefore same is admitted for hearing, subject to all the just exceptions available to the respondent. Alongwith the appeal, an application under Order 41 Rule 5 CPC for staying operation of judgment and decree dated 22.09.2022 has been filed. In the interest of justice, operation of judgment and decree dated 22.09.2022 is stayed. Notice of the appeal be issued to the respondents for 24.11.2022 through ordinary process as well as through RC/AD. Dasti process be given, if so desired. Necessary fee be paid within 5 days of this order.”

5. Having heard the arguments of learned counsel for petitioners, I am of the opinion that there is no room for interference in the aforesaid valid reasons recorded by learned Court below.

6. No material irregularity in law or procedure has been committed by learned Court below, so as to exercise extraordinary revisional jurisdiction herein.

7. In the premise, instant revision petition is disposed of. However, in order to protect the petitioner’s interests in the property in question, respondents are restrained during pendency of said appeal from alienating it any further.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

April 17, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No