

2023:PHHC:140174

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

CR-2655-2023 (O&M)
Date of decision: 02.11.2023

Suvira Punj and another

....Petitioners

Versus

Rahul Soni and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Eklavya Gupta and
Mr. Ashok Gupta, Advocates for the petitioners

ANIL KSHETARPAL, J (Oral)

1. Through this revision petition, the defendants assail the correctness of the order dated 30.11.2022. It is the case of the defendants that the suit filed by the plaintiff (respondent herein) is rendered infructuous as the plaintiff has filed a suit for grant of decree of permanent injunction restraining the defendants from forcible dispossession and interfering in his peaceful possession. The defendants appeared in the court and gave a statement in writing that they will not evict the plaintiff, without following the due course of law. The order passed by the court on 30.11.2022 reads as under:-

“Power of attorneys on behalf of defendants have been filed by Sh.VK Aggarwal, Advocate. Service completed. Learned counsel for the defendants sought adjournment for filing written statement and reply to injunction application. Whereas, learned counsel for the

plaintiff sought interim injunction against defendants on the ground that he is tenant in disputed premises but now the defendants are trying to evict him forcibly. Learned counsel for the defendants submitted that he will not evict the plaintiff without following due course of law. He has also given statement in writing. Therefore, defendants shall remain bound by his statement, given today in court. Learned counsel for the defendants submitted that the cause of action is not surviving. Therefore, case may be dismissed being infructuous. Whereas, learned counsel for the plaintiff submitted that he may be provided opportunity of leading evidence so that he may prove the conduct of the defendants.

Heard. After hearing learned counsels of the parties and keeping in view the interest of justice, case is adjourned to 30.01.2023 for filing written statement and reply to application.”

2. It is the case of the defendants that the suit is rendered infructuous and the court has erred in adjourning the case for filing the written statement.

3. Despite service of the notice in this revision petition, the respondent (plaintiff) has not entered appearance. The plaintiff, while filing the suit, has made the following prayer:-

“It is therefore prayed that a decree for permanent injunction restraining the defendants or

through any agent from dispossessing and interfering in the lawful and peaceful possession of the plaintiff over property bearing House no.17 Ganesh Vihar Ambala Cantt in any manner whatsoever, may kindly be passed in favour of plaintiff and against the defendants with costs of the suit.

OR

Any other relief, which this Hon'ble court may deem fit, be also passed in favour of the plaintiff and against the defendants, in the interest of justice and law."

4. The respondent (plaintiff in the trial court) is a tenant in the property owned by the petitioners (defendants in the suit). He was apprehending forcible dispossession. The landlords have already suffered a statement that they will not evict the plaintiff without following due process of law. Indeed the suit is rendered infructuous and the court was erred in adjourning the case. Hence, the impugned order is modified. The petitioners shall remain bound by their statement. The trial court is requested to consign the file to the records.

5. Disposed of.

6. All the pending miscellaneous applications, if any, are also disposed of.

02.11.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE