

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) CR-1987-2022 (O&M)
Reserved on: 31.05.2023
Date of pronouncement: 02.06.2023

Firm Aqua Seal Construction Company
...Petitioner

Versus

Paramjit Singh and another
...Respondents

(2) CR-2011-2022 (O&M)

Firm Aqua Seal Construction Company
...Petitioner

Versus

Paramjit Singh and another
...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. APS Sandhu, Advocate for the petitioner.
Mr. V.K. Sandhir, Advocate for the respondents.

H.S. MADAAN, J.

By way of this common order, two revision petitions are being disposed of since both the cases are connected matters.

2. Briefly stated facts of the case are that plaintiff firm Aqua Seal Construction Company having its office cum godown in a tenanted premises bearing No.5 Gali Punsup Godown, Ram Talai Chowk, Golden Avenue, Amritsar had brought a suit for grant of permanent injunction against defendants Paramjit Singh HUF through its karta Paramjit Singh

as well as Paramjit Singh in his personal capacity having address of 11-B Ranjit Avenue, Amritsar praying that defendants and persons claiming under them be restrained from dispossessing the plaintiff illegally and forcibly from tenanted premises i.e. one godown on ground floor having length 43.3 feet width 27 feet forming part of plot No.5 situated at Head Water Works Road Gali Punsup Godown, Ram Talai, Amritsar.

Inter alia in the plaint, the plaintiff contended that it had taken the premises in dispute from the defendants on rent @ Rs.19,000/- per month and a rent note dated 08.01.2018 in that regard had been executed; earlier the plaintiff had taken one office on ground floor from defendants @ Rs.15,000/- per month; rent note dated 29.11.2017 was executed in that regard; although the plaintiff has been paying the rent to the defendants regularly, however, of the late, the defendants threatened to interfere in possession of the plaintiff and to dispossess it there from; feeling aggrieved, the plaintiff brought a suit for grant of permanent injunction; along with the suit, it filed an application for grant of ad-interim injunction.

3. On getting the notice, the defendants appeared and filed written statement contesting the suit. Reply to the application for ad-interim injunction was also filed.

4. The trial Court of Civil Judge (Jr. Divn.) Amritsar disposed of the application for grant of ad-interim injunction, vide order dated 26.10.2020, directing the parties to maintain status quo regarding the possession and alienation of the suit property till final disposal of the suit.

5. Feeling aggrieved by the said order, the defendants had

preferred appeals against that before District Judge, Amritsar which were assigned to Addl. District Judge, Amritsar, who vide order dated 16.04.2022 accepted the appeals partly to the extent that parties were directed to maintain status quo with regard to the godown in question but observing that plaintiff/tenant has no right to use the passage in question directing them to restrain it from using the passage situated in between the godown and office and to remove the sign board of firm/company from frontal part of the passage. That order left the plaintiff aggrieved and it has approached this Court by way of filing two revision petitions.

6. Notice of the revision petitions were given to the respondents who have put in appearance through counsel.

7. I have heard learned counsel for the parties besides going through the record.

8. The main ground of learned counsel for the petitioner is with regard to the observations made by learned Addl. District Judge, Amritsar that plaintiff/tenant has no right to use the passage in question and directing it to refrain from doing so and to remove the sign board of firm/company from frontal part of the passage.

According to learned counsel for the petitioner, the defendants had neither filed any separate suit in that regard nor any counter claim had been preferred by them. In the absence thereof, neither such type of observations could be made nor direction in the nature of mandatory injunction be issued, in that way, the order passed by Addl. District Judge, Amritsar to that extent is not sustainable and deserves to be set aside.

9. Whereas such contentions have been vehemently contested by learned counsel for the respondents/defendants contending that as is evident from perusal of the rent notes, the plaintiff was not permitted to use the passage which is situated in between the godown and office and it has no right to block the same by putting its sign board there. Therefore, no fault can be found with the order passed by learned Addl. District Judge, Amritsar.

10. After hearing the rival contentions, I do not find any illegality or infirmity with the impugned order passed by Addl. District Judge, Amritsar. Of course, the plaintiff can protect the possession of the part of premises taken on rent by it from the defendants against threats of forcible dispossession or wrongful interference, but it cannot certainly be allowed to encroach upon other part of premises belonging to the defendants/owners which had not been rented out to it. In the rent notes executed by landlord in favour of plaintiff/tenant, it is not mentioned that it has got right to use the passage in question where an iron gate has been installed for ingress and egress to the back portion of the building. The plaintiff has been provided access to the rented premises from the main street and there is nothing to show that the plaintiff has been permitted to use the passage from inside the building. It does not seem convincing and plausible that after execution of the rent note, the landlord had granted oral permission to the plaintiff to use the passage in question rather the inference draw is that the plaintiff has no right to use that passage and to encroach upon it by putting its sign board therein.

11. Learned Addl. District Judge, Amritsar was justified in passing the order in question. Ad-interim injunction dealt with by Order 39 Rule 1 & 2 CPC is a discretionary equitable relief which is to be granted by the Court keeping in view all facts and circumstances including the conduct of the parties and no person can claim this relief as a matter of right. The three essential ingredients which must be fulfilled conjunctively by the plaintiff craving for grant of ad-interim injunction are (i) a good prima facie case in favour of the plaintiff; (ii) balance of convenience being in favour of plaintiff and (iii) the plaintiff suffering irreparable loss and injury in case of denial of the relief.

In this case, with regard to premises let out to the plaintiff by the defendants, the defendants cannot certainly dispossess it forcibly and illegally but as it comes out, the plaintiff wants to encroach upon other part of the premises belonging to the landlord which had not been rented out to it. It can certainly be not permitted to do so by granting it ad-interim injunction. There is no question of balance of convenience being in its favour and its suffering irreparable loss and injury. The trial Court by total non application of mind and without trying to understand the factual and legal position properly directed the parties to maintain status quo.

12. The Ist Appellate Court was also somewhat lenient with the plaintiff maintaining the portion of order passed by the trial Court with respect to status quo in respect of godown in question, though, keeping in view the conduct of the plaintiff, it did not deserve to be granted that relief even. Section 151 of the Code of Civil Procedure, 1908 saves

inherent power of the Court providing that nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

Learned Addl. District Judge, Amritsar was justified in passing the order asking the plaintiff/tenant not to use the passage in dispute and to remove its sign board to curb its expansionist designs. The Court was certainly not helpless in the matter and such orders were rightly passed, though, no separate suit had been filed by the defendants or counter claim submitted in this suit. Granting relief to such type of persons who themselves commit wrong would encourage other people to take law into their own hands resulting into chaos and lawlessness in the society.

13. Counsel for the petitioner had referred to judgments **Rame Gowda (D) by LRs Vs. Varadappa Naidu (D) by LRs & Anr.**, 2004 (1) RCR (Civil) 519, **M/s S.S. Fasteners Vs. Satya Paul Verma**, 2000 (3) RCR (Civil) 755, **Kanwar Pal & Anr. Vs. Om Parkash & Ors.**, 1985 (1) PLR 320 and **Harbhajan Singh Vs. Kartar Singh**, 1998 (1) RCR (Civil) 623. Those are not applicable due to different facts and circumstances and the context in which such observations had been made.

14. I do not find any illegality or infirmity in the impugned orders. The same are upheld. The revision petitions are found to be without merit and are dismissed accordingly.

02.06.2023

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Whether speaking/reasoned :
Whether Reportable :

Yes
Yes

(H.S. MADAAN)
JUDGE

No
No