

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2612-2013(O&M)

Date of Decision: 19.09.2023.

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Harjit Singh and Ors

.....*Petitioners*

Versus

State of Punjab and Ors

.....*Respondents*

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. S.S.Sodhi, Advocate for the petitioners.

Mr. Rozer Kumar Agagrwal, AAG, Punjab.

Mr. Kamal Singh, Advocate for respondent Nos. 2 to 5.

GURBIR SINGH, J (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India, praying for setting aside the order dated 21.04.2023 (Annexure P-1) passed by learned trial Court vide which the learned trial Court has not extended the order of *status quo* after 08.02.2023 (Annexure P-4) and same was deemed to be vacated.

2. Briefly stated, that the plaintiff filed a suit for declaration and permanent injunction. Vide order dated 10.08.2022, notice was issued to the defendants/respondents in the suit as well as in the stay application, and the parties were directed to maintain *status quo* regarding peaceful possession over the suit property till the next date of hearing. Subsequently, the case was adjourned on multiple occasions, and the status-quo order was ordered to be extended, which remained in force till 08.02.2023. On 08.02.2023, an application under Order 1 Rule 10 CPC was filed on behalf of the defendant-respondents.

When the case was taken up on 08.02.2023, no order with regard to extension of status quo was passed. The order dated 08.02.2023 is reproduced below for reference:-

“ Application under Order 1 Rule 10 CPC has been filed by counsel for defendant. Copy supplied. Reply to said application be filed on 15.02.2023.”

3. The plaintiff/petitioner filed an application for the extension of the *status quo* order dated 10.08.2022. The learned trial Court, vide impugned order dated 21.04.2023 (Annexure P-1) dismissed the application. The relevant portion of the impugned order is reproduced below for reference:-

*“Xx xx xx xx xx xx xx xx xx xx
Since, in the order dated 10.08.2022, it has been specifically mentioned that parties are directed to maintain status quo till the next date of hearing and said order was never extended after 08.02.2023, so the said order automatically gets vacated. Accordingly, without going into the merits, the application for passing speaking order regarding not extension of status quo order dated 10.08.2022 and application for extending the status quo order are disposed of accordingly.”*

4. On asking, it has been submitted by the learned counsel for the parties that an application under Order 39 Rule 1 & 2 is still pending adjudication. As per Order 39 Rule 3 CPC, when an *ex-parte*, interim order is granted, then application is required to be disposed of within a period of 30 days, or there should be sufficient grounds for delaying the decision.

5. In the case in hand, the learned trial Court was required to decide the application for grant of temporary injunction but order of status quo was being extended. The application under Order 1 Rule 10 CPC was filed by the defendant. The learned trial court neither extended the order of status quo nor vacated the same. In other words learned trial court did not apply its mind so it cannot be said that the order was vacated or deemed to have been vacated. Litigant should not suffer under such circumstances.

6. Keeping in view the aforesaid facts and in the interest of justice, the learned trial Court is directed to decide an application under Order 39 Rule 1 & 2 within a period of one month from the next date already fixed in the learned trial Court. Till the disposal of the said application, parties are directed to maintain *status quo* regarding possession.

7. Petition stands disposed of accordingly.

(GURBIR SINGH)
JUDGE

19.09.2023

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No