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

**CR-3399-2023 (O&M)  
Date of Decision: 31.05.2023**

Ramphal

...Petitioner

Versus

Amir Singh

....Respondent

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

**Present:** Mr. Lalit Kumar Narang, Advocate  
for the petitioner.

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**ARUN MONGA, J. (ORAL)**

**CM-10196-CII-2023**

Allowed as prayed for, subject to all just exceptions.

**Main case**

Petition herein is for setting aside order dated 25.04.2023 (Annexure P-6) passed by Ld. Additional Civil Judge (Sr. Division), Meham to the extent that Ld. Trial Court, without taking into consideration facts and circumstances of the case, has wrongly observed that '*at the same time, this Court is of prima-facie view that it is respondent/defendant who is in possession of suit property at this stage*' and Ld. Civil Court has further directed the parties not to alienate the suit property to any person.

2. Succinct facts first, as pleaded in the instant petition.

2.1. Petitioner/plaintiff has filed suit for declaration to the effect that Agreement to Sell dated 08.10.2021 (Annexure P-4), allegedly executed in favour of Amir Singh-respondent/defendant is illegal, null and void and not binding upon the rights of petitioner/plaintiff and has been obtained by fraud and misrepresentation and also sought a decree of permanent injunction by restraining the respondent/defendant from interfering in the peaceful possession of petitioner/plaintiff over the agricultural land total measuring 42 Kanals 8 Marlas 5 Sarsai, situated within the revenue estate of Village Nindana Khas District Rohtak.

2.2. Petitioner/plaintiff also filed application (Annexure P-2) under Order 39 Rules 1 & 2 CPC seeking *ad interim* injunction by restraining the respondent/defendant from dispossessing the petitioner/plaintiff from suit property and interfering in the peaceful possession of the petitioner/plaintiff.

2.3. Vide impugned interim order dated 25.04.2023 (Annexure P-6), Ld. Trial Court directed the parties to maintain status-quo *qua* possession over the suit property. Further the Ld. Trial Court directed the parties not to alienate the suit property to any person till the next date of hearing.

3. Learned counsel for petitioner would argue that Ld. Trial Court fell in error while observing in the impugned order that '*Prima facie the defendant is in possession of the suit property whereas the argument of counsel for the plaintiff about taking undue advantage by defendant over plaintiff seems probable xxxxxx At the same time, this Court is of the prima facie view that it is the defendant who is in possession of the suit property at this stage.*'

4. Given the nature of order being passed, there is no necessity to issue notice to the respondent, as no serious prejudice would be caused to him. Notice to respondent herein is thus dispensed with.

5. Having heard the arguments of learned counsel for petitioner and gone through the record, I am of the view that Ld. Court below ought to have refrained from making observations at the time of adjudicating upon application for granting ad-interim stay under Order 39 Rules 1 & 2 CPC, during pendency of suit that '*At the same time, this Court is of the prima facie view that it is the defendant who is in possession of the suit property at this stage.*' The same, in my opinion, were unnecessary and unwarranted and said part of the order is therefore, expunged with liberty to both the sides to agitate their rights *qua* possession at the time of final arguments.

6. No interference is called for regarding direction in the impugned *ad interim* order requiring the parties to maintain status quo *qua* possession of suit property.

7. Petition stands disposed of.

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

( ARUN MONGA )  
JUDGE

May 31, 2023  
ashish

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No