

2023:PHHC:083396

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3625-2023 (O&M)
Date of Decision: July 04, 2023

Sudesh Rani

...Petitioner

Versus

Toresh Meenal Uppal and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.R.K.Bhatia, Advocate
for the petitioner.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 30.05.2023 (Annexure P-5) passed by learned Court below in the pre-Lunch session and subsequent order of the even date passed after the lunch break, whereby, no order on the application under Order 39 Rule 1 & 2 was passed.

It is submitted by learned counsel for the petitioner that initially, the petitioner-plaintiff had filed a suit for issuance of permanent injunction against respondents-defendants to restrain the respondent-defendant No.1 from raising construction on his plot, which is adjoining the backside of house of the petitioner. It is further submitted that as per the bye-laws, the height of the boundary wall was required upto 1.83 metres, which the petitioner had raised, at the time of raising construction of her house. This was the common wall. However, respondent No.1, at the time of raising the construction of his house, has raised a parallel wall, but to the extent of 33 feet, which is in violation of the notification, which states about the wall to

be constructed upto to the height of 1.83 metres.

Further, it is submitted that at the time of entertainment of the suit on 12.04.2023, ad-interim ex-parte injunction was not granted and notice was issued to the defendants for 30.05.2023. Copy of the said order is page 30 of the paperbook. However, it is submitted that on 30.05.2023, respondents-defendants had made appearance, but had not filed written statements and the case was further adjourned for 10.07.2023. A prayer was made for relief of ad-interim ex-parte injunction, which was declined. Thereupon, on that very day, in the post-lunch session, an application was filed for deciding application under Order 39 Rule 1 & 2 CPC, which was dismissed and the stay application was adjourned, to be taken up on the date already fixed i.e. 10.07.2023. Copies of the said orders are at page 37 and 38 of the paperbook.

As evident from the aforesaid orders, the written statement has not yet been filed. On the last date only, the respondents-defendants had made appearance.

In the given circumstances, an endeavour should be made by the concerned Court below to insist for the filing of the written statement and dispose off the application under Order 39 Rule 1 and 2 CPC, within a period of 10 days, from the next date fixed i.e. 10.07.2023.

Accordingly, the present revision petition stands disposed of.

July 04, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No