

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5819-2023
DECIDED ON: 03.10.2023

SARABJIT KAUR

.....PETITIONER

VERSUS

AMRINDER SINGH AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. S.S. Kamboj, Advocate
for the petitioner.

SANJAY VASHISTH, J (ORAL)

1. Present revision petition has been filed by petitioner (plaintiff) by challenging the order dated 05.08.2023 (P-8) passed by Ld. Civil Judge (Junior Division), Rajpura, whereby the application filed by the petitioner (plaintiff) under Order XXXIX Rule 1 and 2 for seeking interim injunction was dismissed and the earlier granted *ex parte* ad-interim stay vide order dated 09.06.2023 was vacated.

Thereupon, petitioner (plaintiff) filed an appeal against the order of dismissal of application under Order XXXIX Rule 1 and 2 and the said appeal is pending adjudication on the issue of interim injunction during the pendency of the suit before trial Court for its final adjudication before the Court of learned Additional District Judge, Patiala.

2. Along with the memo of appeal, an application for grant of ad-interim stay was also filed by the petitioner-appellant.

In the said application and the appeal, on 21.08.2023, following order was passed by the Learned Appellate Court:-

“Present: Sh. Achhar Kumar, Advocate for appellant

Appeal received by entrustment. It be registered. Heard. There are arguable points in the appeal and the same is admitted subject to just exceptions.

Notice to respondents be issued for 2.9.2023 through courier service provided by Department of Post, ordinary process as well as through speed post.

*Along with appeal, an application U/o 39 Rule 1 and 2 CPC has also been filed. It be registered as interim application. **Arguments heard on the exparte interim stay. At this stage, no ground is made out for the grant of exparte interim stay. Let other party be also heard.** Notice of the said application be also issued to the respondents for the date fixed.”*

3. Counsel for the petitioner submits that though, relief of interim injunction claimed under Order XXXIX Rule 1 and 2 is urgent in nature, still, the application was kept pending by the Court. Moreover, the application for grant of *ex parte* stay was also dismissed, which prejudiced the rights of the plaintiff (petitioner herein).

Further submits that learned Appellate Court has failed to provide any reasoning while dismissing the application for grant of *ex parte* interim stay, thus, has passed a non-speaking order and if the appeal is kept pending, without there being any interim stay, the same would be rendered infructuous.

4. This Court has perused and deeply scrutinised the order dated 21.08.2023 (P-9) passed by the learned Appellate Court and is of

the view that the Learned Appellate Court has found that there is no ground for grant of *ex parte* ad-interim stay, however, opportunity is given to the other party also for hearing on the issue and the application seeking interim injunction under Order XXXIX Rule 1 and 2 has been kept pending.

5. For deciding the issue raised by way of present petition, there is no need to call for the other side i.e. defendants and therefore, the present petition is disposed of with a direction to the Court of learned Additional District Judge, Patiala to decide the case bearing No. AO 166 of 2023 which is now pending for 23.11.2023, **within a period of two months from the date of receipt of certified copy of this order.**

It is further directed that the application for ad-interim stay filed by the petitioner under Order XXXIX Rule 1 and 2, shall be decided by the Court of learned Additional District Judge, Patiala, at the earliest, in accordance with law, **within a period of one week from the date of receipt of the copy of this order and such decision is expected to be well reasoned and speaking.**

6. With the aforementioned observations, present petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

03.10.2023

Lavisha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>