

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

**CR No. 5817 of 2022
Date of decision: 11.01.2023**

Harinder Kumar Petitioner.

Versus

Kashmira Singh Respondent.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Baljeet Beniwal, Advocate, for the petitioner.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the order dated 08.09.2022 passed by the Civil Judge (Junior Division), Fatehgarh Sahib, whereby the application preferred by him under Order 38 Rule 5 of the Code of Civil Procedure, 1908 ('CPC - for short), has been declined.

Learned counsel for the petitioner submits that the petitioner had entered into an agreement to sell with the respondent and the respondent had resiled from the same. He has filed a suit for recovery of the earnest money which he had paid to the respondent. There is every likelihood of the respondent alienating the suit land and, therefore, the application for attachment of the property of the defendant ought to have been allowed.

Heard.

In response to a query of this Court as to whether the petitioner had filed an application under Order 39 Rules 1 and 2 of the CPC, learned counsel for the petitioner submits that the application had been declined and an appeal there-against is pending adjudication before the Appellate Court.

It is manifest that the title of the suit property was not clear and only after obtaining a clear title by the vendor, the sale deed could have been executed. There does not seem to be any material on record at this stage which would indicate that the respondent is trying to alienate the suit land. Therefore, I do not find any infirmity in the impugned order dated 08.09.2022 declining the application of the petitioner.

Consequently, the petition stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

11.01.2023
Ramesh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No