

122.

2023:PHHC:156118

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

CR-7339-2023

Date of decision: 06.12.2023

Smt. Saroj

... Petitioner

Versus

Mohan Lal Garg and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

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

GURBIR SINGH, J. (Oral)

1. Prayer in this revision petition filed under Article 227 of the Constitution of India is for issuance of directions to the learned Civil Judge (Junior Division), Bhiwani, to decide the application (Annexure P-1) filed by the petitioner-plaintiff under Order 39 Rules 1 and 2 read with Section 151 CPC for ad interim injunction which was subsequently amended by way of supplementary applications dated 03.11.2023 and 21.11.2023 in Civil Suit No.1495 of 2023.

2. Brief facts, as culled out from the petition, are that the petitioner-plaintiff filed a suit on 17.10.2023 for permanent injunction restraining respondent-defendant No.1 from interfering in the peaceful possession over the suit property. An application under Order 39 Rules 1 and 2 read with Section 151 CPC was also filed. It was submitted that notices issued respondent-defendant No.2 i.e. Municipal Commission Bawanikhera had issued notices dated 29.09.2023 and 05.10.2023 for demarcation of the

suit property. However, during pendency of suit, defendant No.2 also issued notices dated 17.10.2023 and 23.10.2023 for removing the alleged encroachment. The hearing in the suit was fixed for 21.11.2023. Apprehending demolition, petitioner moved application for preponing the said date, which was allowed and the matter was listed for 03.11.2023 and on said date, it was observed that since there was no mention of notices dated 17.10.2023 and 23.10.2023 in the suit, the plaintiff moved supplementary applications dated 03.11.2023 and 21.11.2023 seeking amendment in the plaint under Order 6 Rules 17 read with Section 151 CPC as well as in the ad interim application filed under Order 39 Rules 1 and 2 read with Section 151 CPC. On 21.11.2023, the matter was listed for filing reply, which was filed on 29.11.2023 and thereafter, the matter was adjourned for 08.12.2023 for arguments.

3. It is submitted that on false complaint of respondent No.1, notices dated 17.10.2023 and 23.10.2023 were served upon the petitioner in order to disturb his peaceful possession. It is contended that since there is no order of status quo over the property in question, there is every possibility that the respondents may take coercive action to demolish the structure over the suit property. If the respondents succeed in their mala fide intention, the petitioner would suffer irreparable loss and it might lead to multiplicity of litigation. Thus, he has prayed for deciding his amended application filed under Order 39 Rules 1 and 2 read with Section 151 CPC in a time bound manner.

4. I have heard the submissions of learned counsel for the petitioner and have gone through the paper book.

5. Although the court has given short adjournments, but keeping in view the urgency that the petitioner has received notices of demolition, so the trial Court is directed to dispose of the amended applications dated 03.11.2023 and 21.11.2023 filed under Order 39 Rules 1 and 2 read with Section 151 CPC expeditiously but not later than 15 days on receipt of certified copy of this order.

6. Present petition is allowed accordingly.

(GURBIR SINGH)
JUDGE

December 06, 2023

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No