

115.

2023:PHHC:165293

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

CR-7842-2023

Date of decision: 22.12.2023

Gurkirat Singh

.... Petitioner

Versus

Gurudwara Akalgarh Sahib Charitable Trust, Chaura Bazar, Ludhiana

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Ramesh Sharma, 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 direction to the learned Additional District Judge, Ludhiana to decide the application filed by the petitioner under Order 39 Rule 1 and 2 read with Section 151 CPC along with the appeal i.e. Civil Appeal No.1164 of 2023 titled as *Gurkirat Singh Versus Gurudwara Akalgarh Sahib Charitable Trust*, and during pendency of appeal, respondent be restrained not to dispossess the petitioner from the suit property.

2. Briefly stated, the petitioner-plaintiff (hereinafter called, “plaintiff”) filed a suit for grant of permanent injunction restraining the respondent-defendant (hereinafter called, “defendant”) from interfering in the

peaceful possession of the plaintiff in the suit property i.e. shop bearing Nos.828, 834 and 791 situated in Akal Market, Chaura Bazaar, Ludhiana. He also moved an application under Order 39 Rule 1 and 2 read with Section 151 CPC seeking ad-interim injunction. Vide order dated 09.04.2018, said application was allowed. However, vide judgment and decree dated 04.11.2023, the suit was dismissed. An appeal was preferred along with an application dated 16.12.2023 seeking ad-interim injunction.

3. Learned counsel for the petitioner submits that the appeal is pending for 09.01.2024, but no notice was issued by the learned appellate Court in his application filed under Order 39 Rule 1 and 2 read with Section 151 CPC. It is contended that since the suit was dismissed and no stay was granted in appeal by the learned appellate Court, the petitioner has the apprehension that the respondent would make attempt to dispossess him from the suit property. So, by way of present revision petition, petitioner is seeking direction to the learned appellate Court to decide his application expeditiously and if the respondent succeeds to get the possession of the suit property, his appeal would become infructuos.

4. I have heard the submissions of learned counsel for the petitioner.

5. Since the learned appellate Court has not issued notice on the application filed under Order 39 Rule 1 and 2 read with Section 151 CPC, may be inadvertently, so the learned counsel for the petitioner is advised to bring to the notice of the learned appellate Court by moving an application that notice in the application be also issued.

6. Keeping in view that appeal is a statutory right, the appellate Court shall decide the application for stay expeditiously and shall not give any unnecessary adjournment.
7. Present revision petition stands disposed of accordingly.
8. Copy of this order be issued dasti under the signature of the Bench Secretary of this Court.

(GURBIR SINGH)
JUDGE

December 22, 2023

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No