

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

130

CR-1523-2024 (O&amp;M)

Date of decision:13.03.2024

Gurlabh Singh &amp; another

... Petitioners

Vs.

Ramandeep Kaur &amp; another

... Respondents

**CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. H.S. Saini, Advocate for the petitioners.

...

**SUKHVINDER KAUR, J. (ORAL).**

1. The instant revision petition has been filed by the plaintiffs/petitioners against the order dated 05.03.2024 passed by the Civil Judge (Sr. Division), SAS Nagar, Mohali, whereby an application filed by the petitioners under Order 39 Rule 1 & 2 CPC read with Section 151 CPC seeking grant of ex-parte ad interim injunction has been rejected.

2. Brief facts that are required for disposal of the instant revision petition are that the petitioners filed a suit for recovery of Rs.41,70,000/- i.e. Rs.36 lakhs as principal and Rs.5,70,000/- as interest @ 6% per annum from 05.06.2017 to 05.06.2021 along with future interest from the date of filing of the suit till realization. In the said suit, respondents/defendants did not appear and were proceeded against ex-parte by the trial Court and it was ex-parte decreed by the trial Court vide judgment and decree dated 30.07.2022, holding that the petitioners were entitled to recover the principal amount of Rs.36 lakhs along with interest @ 6% per annum from the respondents from the due date till the filing of the suit and they were also held entitled to the future interest @ 6% per annum from the date of decision of the suit till the actual realization. Petitioners filed Execution Application No.14 of 2023

before the Executing Court, SAS Nagar, Mohali in which again the respondents did not appear for contesting the said application. The Executing Court issued warrants of attachment of the property of respondents vide order dated 05.07.2023. When the respondents came to know about the attachment of the property in the execution proceedings, then they filed an application for stay of proceedings of the execution application. Respondents also filed an application under Order 9 Rule 13 CPC seeking setting aside of the ex-parte judgment and decree dated 30.07.2022. The Executing Court during the pendency of the application filed by the respondents under Order 9 Rule 13 CPC seeking setting aside of the ex-parte judgment and decree dated 30.07.2022 vide order dated 25.09.2023 stayed the execution proceedings while ordering the same to be tagged with the application under Order 9 Rule 13 CPC. In order to frustrate the execution proceedings for recovering the huge decretal amount by way of attachment of the property of the respondents, respondent were bent upon selling, encumbering, mortgaging or transferring in any manner the suit property. So the plaintiffs/petitioners filed Civil Suit No.164 of 2024 titled as 'Gurlabh Singh & another Vs. Ramandeep Kaur & another' seeking decree of permanent injunction from restraining the respondents/defendants from selling, encumbering, mortgaging or transferring in any manner the land which is the subject matter of the said suit as the plaintiffs/petitioners were apprehending that the respondents/defendants may further alienate the suit property in order to frustrate the judgment and decree dated 30.07.2022 and the third party rights. The petitioners along with the aforesaid suit also filed an application under Order 39 Rule 1 & 2 CPC read with Section 151 CPC

seeking grant of ex-parte ad interim injunction for restraining the defendants from selling, encumbering, mortgaging or transferring in any manner the suit property but vide the impugned order dated 05.03.2024, the trial Court illegally and arbitrarily declined the grant of ex-parte injunction at this stage and issued notice of the suit as well as of the application filed under Order 39 Rule 1 & 2 CPC to the defendants. Aggrieved of the said order, the present revision petition has been filed at the hands of the petitioners/plaintiffs.

3. It has been contended by learned counsel for the petitioners that the trial Court has illegally not granted the ex-parte injunction to the petitioners before hearing the opposite party. The respondents have succeeded in alienating the part measuring 3 bighas out of the suit property in favour of Marigold Infotech Private Limited Chandigarh vide registered sale deed dated 04.03.2024. He has argued that the petitioners have come to know that the respondents are likely to execute the other sale deed on 11.03.2024 of the property which is already under attachment in the execution proceedings in the suit for recovery, decreed in favour of the petitioners and the petitioners would not be able to get the money recovered from the respondents and the judgment and decree dated 30.07.2022 passed in favour of the petitioners would become un-executable and the suit filed by the petitioners would also be rendered infructuous.

4. I have heard learned counsel for the petitioners at length and have perused the records.

5. A perusal of the impugned order reveals that vide the impugned order dated 05.03.2024, the trial Court has observed that no ground is made

out for granting the ex-parte injunction at this stage and the trial Court deemed it fit to hear the opposite party before passing any interim order and notice of such suit as well as application filed under Order 39 Rule 1 & 2 CPC had been ordered to be issued. So only at this stage the ex-parte injunction has been declined and notice of the suit as well application filed under Order 39 Rule 1 & 2 CPC has already been issued to the respondents.

6. During the course of arguments, learned counsel for the petitioners has submitted that he would be satisfied if a direction is issued to the trial Court to decide the application filed under Order 39 Rule 1 & 2 CPC in a time bound manner.

7. So, keeping in view the facts and circumstances of the present case, the trial Court is directed to dispose of the application filed under Order 39 Rule 1 and 2 CPC as per law, within a period of one month from the date of the defendants make appearance before the trial Court. However, if the defendants are not served for the date fixed before the trial Court, then petitioners will get the service effected at their own responsibility.

8. Till the disposal of the application filed by the petitioners under Order 39 Rule 1 & 2 CPC by the trial Court, the status quo regarding alienation be maintained.

9. Revision petition is disposed of in the aforesaid terms.

10. All pending applications, if any, also stand disposed of accordingly.

( SUKHVINDER KAUR )  
JUDGE

13.03.2024

*harjeet*

1. Whether speaking/reasoned?

Yes/No

2. Whether reportable?

Yes/No