

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

CR-2521-2024

Date of Decision: 26.04.2024

MUSLIM JANTA WELFARE ACTION COMMITTEE

....Petitioner

VERSUS

JALALUDIN AND ORS

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Prateek Sodhi, Advocate
for the petitioner.

VIKAS SURI, J. (Oral)

1. This petition under Article 227 of the Constitution of India has been filed against the order dated 15.02.2024, passed by the learned Additional District Judge, Amritsar, being the first appellate Court, wherein before, the order dated 29.01.2024 passed by the trial Court on an application under Order 39 Rules 1 and 2 CPC, was assailed.

2. The petitioner, namely Muslim Janta Welfare Action Committee, has instituted a suit under Order 1 Rule 8 CPC seeking relief of permanent injunction, restraining the defendants from making any kind of excavation of the graveyard and from raising construction over the same (popularly known as Kashmiri Musalman) and other lands attached to the said graveyard. They have an area of 52 Kanals 1 Marla situated at Khasra No.450(8-4), 451(1-3), 452(1-2), 453(5-0),

454(21-5), 455(3-6) as per jamabandi for the year 1986-87, village Sultanwind, Tehsil and District Amritsar. Along with the said suit, petitioner had moved an application under Order 39 Rules 1 and 2 CPC.

3. Upon notice, the same was contested by the defendants by filing reply. The said application was dismissed vide order dated 29.01.2024, passed by learned Civil Judge (Junior Division), Amritsar and an appeal was preferred thereagainst impugning the said order, along with an application under Order 39 Rules 1 and 2 CPC for grant of *ad interim* injunction till the disposal of the main appeal on its merits.

4. Learned counsel for the petitioner submits that respondents were on caveat but they chose not to put in appearance on the first date and accordingly, on 15.02.2024, notice of the said application as well as of the appeal was issued to them for 01.03.2024. Thereafter, they sought time for filing reply on two occasions and on third hearing, learned counsel for the respondents refused to argue the case as has been noticed in the order dated 03.04.2024, which reads as thus:-

“Ld. Counsel Sh. Pardeep Kumar Saini, Advocate submits that he does not want to argue his case before this Court and wants to transfer the same and without submitting the arguments, has left the court. Case called but later on none came. So, in the interest of justice, adjourned to 18.4.2024.”

5. However, on the following hearing, learned counsel for the respondents sought an adjournment to address final arguments and accordingly, proceedings have been deferred to 01.05.2024 for final arguments.
6. Learned counsel for the petitioner restricts his prayer before this Court to seek an expeditious disposal of the aforesaid stay application in a time bound manner. It is further submitted that petitioner is apprehensive that the respondents would make all efforts to get the proceedings adjourned to avoid the application for interim stay being considered by the Court.
7. Heard learned counsel for the petitioner and with his able assistance, perused the material available on record.
8. In consideration of the foregoing, without expressing any opinion on the merits of the case or commenting upon the contentions pleaded in the revision petition, this Court deems it appropriate to dispose of the instant revision petition, directing the first appellate Court to expeditiously dispose of the application for *ad interim* stay filed along with the main appeal, in accordance with law, on the date already fixed before it or within a reasonable period thereafter.
9. Petition is disposed of in the aforesaid terms. Pending applications, if any, also stand disposed of.

April 26, 2024
Sangeeta

(VIKAS SURI)
JUDGE

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