

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

129

CR-2607-2024 (O&M)
Date of decision:30.04.2024

Bharat Tayal

... Petitioner

Vs.

M/s Omaxe Ltd. & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Akshay Bhan, Sr. Advocate with
Mr. Aman Bansal, Advocate for the petitioner.

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SUKHVINDER KAUR, J.

1. The instant revision petition has been filed against the order dated 22.04.2024 passed by the Additional Civil Judge (Sr. Division), Palwal, (Annexure P-16), vide which ad-interim injunction has been refused to the petitioner without deciding the application filed under Order 39 Rules 1 & 2 CPC.
2. The brief facts relevant for the purpose of adjudication of the present revision petition are that the petitioner/plaintiff filed a suit for permanent injunction restraining the defendants/respondents from blocking the passage/rasta which abuts to commercial complex of the Omaxe City from 12 mtr. wide road in the Omaxe City, Palwal.
3. Upon issuing notice, respondents contested the suit. Along with the said suit, plaintiff/petitioner also filed an application under Order 39 Rules 1 & 2 CPC read with Section 151 CPC for ad-interim injunction for restraining the respondents from blocking/closing, obstructing and to create

any sort of interference in the passage in dispute by any means. Notice of the said application was issued to the respondents for 16.04.2024. Respondent No.3-Association put in appearance and filed its reply to the said application. The said application is pending adjudication. Vide impugned order dated 22.04.2024 (Annexure P-16), the trial Court refused to grant ad interim-injunction. Hence, aggrieved of the same, the petitioner/plaintiff has knocked the doors of this Court by way of filing the present revision petition.

4. Learned senior counsel for the petitioner has contended that vide the impugned order, the ad-interim injunction has been declined without deciding the application dated 16.04.2024 filed under Order 39 Rules 1 & 2 CPC and without appreciating the material facts and documents on record. He has further contended that the trial Court has failed to appreciate that there were three ways to visit/approach SCO No.B-7 belonging to the petitioner. Now at point 'A', respondent No.3 has erected the cemented wall; at point 'B' respondent No.3 has installed a permanent gate which remains closed for 24 hours. After closure of the aforesaid two passages, the only passage left with the petitioner as well as with purchasers is the passage marked at point 'B' and it is the only way that connects the petitioner's SCO with 12 meter wide road, which is in existence since the year 2010 and is also there in the approved lay out plan by the Directorate, Town and Country Planning, Haryana. He has argued that respondent No.1 had sold the commercial unit by showing the passage reflected in the plan to various purchasers and now the right of the purchasers to have the passage that connects their SCOs to the 12 meter wide road, cannot be denied and

respondents cannot allow to close/obstruct the passage in dispute by installing a gate or by other means. He has further urged that the petitioner had also purchased SCO No.B-7 after seeing its existing location and passage to the same and now the respondents cannot be allowed to close/obstruct the passage in dispute.

5. After arguing for some time during the course of the arguments, learned senior counsel for the petitioner has submitted that he would be satisfied if the trial Court is directed to decide the application under Order 39 Rules 1 & 2 CPC pending before it in a time bound manner.

6. In view of the above, the present revision petition is disposed of with a direction to the trial Court, to decide the stay application filed by the petitioner under Order 39 Rules 1 & 2 CPC expeditiously, as per law, preferably, within a period of one month from the date of receipt of copy of this order.

7. Till then, the status quo be maintained regarding the passage in dispute and the respondents are restrained from blocking/obstructing the said passage.

8. Disposed of in the aforesaid terms.

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

(SUKHVINDER KAUR)
JUDGE

30.04.2024

harjeet

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No