



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
136**

CR-2853-2024

Date of decision: 14.05.2024

CRAFT INFRASTRUCTURE PRIVATE LIMITED

.....PETITIONER

Versus

ANUTTAMA BUILD MART PRIVATE LIMITED AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Gaurav Chopra, Sr. Advocate,
with Mr. J.S.Bhatia, Advocate,
for the petitioner.

RITU TAGORE, J. (ORAL)

1. This revision is directed against the order dated 22.02.2024 passed in CS/484/2024 titled as 'Anuttama Buildmart & Anr. Vs. Sky Scraper Infraprojects & Ors.' (Annexure P-1) passed by the learned Civil Judge (Senior Division), Gurugram, District Court, Gurugram.

2. The learned counsel representing the petitioner, *inter alia*, argues that apart from the challenge raised to the maintainability of the suit for specific performance and permanent injunction, instituted by respondents No. 1 and 2 against the petitioner and other respondents No. 3 and 4, on various pleas taken in application under Order 7 Rule 10 CPC filed by the petitioner in the above suit; learned trial Court, without delving into the merits of the case and without considering the reply to the interim application under Order 39 Rules 1 and 2 read with Section 151 filed by the petitioner (defendant No. 3 before the trial Court), granted stay to respondents No. 1 and 2, detrimental to the rights of the petitioner.



3. To support his contention, learned counsel referred to the *zimini* orders passed by the learned trial Court. *Zimini* order dated 06.02.2024 indicates filing of the suit by respondents No. 1 and 2 and thereafter, posting it for 09.02.2024 for the service of the respondents/defendants with notice of the suit and application for the stay. *Zimini* order 09.02.2024 indicates that petitioner and other respondents No. 3 and 4 caused their appearance and the present petitioner filed the preliminary reply to the application under Order 39 Rules 1 and 2 read with Section 151 CPC and also filed an application under Order 7 Rule 10 read with Section 151 CPC and thereafter, the case was posted for 12.02.2024 for filing reply to the application under Order 7 Rule 10 CPC and its consideration, as well as filing of written statement and reply to the injunction application on behalf of other respondents. The *zimini* order dated 12.02.2024 further indicates that the matter was posted for 16.02.2024, 19.02.2024 and thereafter, for 22.02.2024 (Annexure P-1), when the application under Order 7 Rule 10 CPC was disposed of as dismissed and the parties were directed to maintain status quo qua alienation, possession and change of nature of the suit property, till further orders.

4. Learned counsel submits that the petitioner is not a party to MOU (Annexure P-4) and the stay granted by the learned trial Court without going into the merits of the case and the response filed by the petitioner to the stay application, has caused serious prejudice to the petitioner. Learned counsel, thus, made a prayer to set aside the impugned order and in the alternate, stay the proceedings pending before the learned trial Court till the pendency of the present revision.

5. To the considered opinion of this Court, the appropriate course of action would be to direct the learned trial Court to decide the application



for injunction filed under Order 39 Rules 1 and 2 read with Section 151 CPC on or before 31st of this month where the trial Court has already seized of the matter. To that end, learned trial Court may reschedule the case for an earlier date and may take necessary pleadings from the parties concerned, who have yet to file the same.

6. Revision Petition stands disposed of in above terms.

7. It is further clarified that anything observed herein above, may not be taken as an expression of opinion on the merits of the matter and the trial Court shall not be influenced by any observations made in the matter.

8. Pending applications, if any, also stand disposed of accordingly.

May 14, 2024

pj

**(RITU TAGORE)
JUDGE**

Whether speaking/reasoned: *Yes/No*

Whether reportable: *Yes/No*