

2024:PHHC:093886



S. No.125

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.3467 of 2024

Date of Decision:25.07.2024

Harpreet Singh @ Nikka

.....Petitioner

Vs.

Lakhvir Singh

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. J.S. Bhinder, Advocate for the petitioner.

DEEPAK GUPTA, J. (Oral)

Petitioner herein was defendant in Civil Suit No.266 of 2023 titled as
“Lakhvir Singh Vs. Harpreet Singh @ Nikka” filed by plaintiff- Lakhvir Singh
(respondent herein) decided on 26.10.2023. Following relief was granted by the
trial Court:-

“Hence, in view of my findings on the above said issues, the suit of the plaintiff is partly decreed with costs, and the defendant is directed to remove his workshop installed by him. However, defendant has right to run the same after getting the permission from the appropriate authority, subject to the condition that his act should not cause any loss to the house of the plaintiff and his act should not pollute the atmosphere with noise. Rest of the relief claimed by the plaintiff stands declined. Decree sheet be prepared accordingly and file be consigned to the Record Room.”

Thereafter, the plaintiff- decree-holder moved an application under Order 21 Rule 32 CPC for asking the judgment debtor- defendant to make compliance of the order. After taking evidence of the parties, the Court concerned by way of the impugned order dated 22.05.2024 found as under:-



“8. Onus to prove this issue was upon the applicant. Perusal of the summoned file shows that the suit of the applicant/ plaintiff was partly decreed and respondent/ defendant was directed to remove his workshop installed by him. However, it was held that respondent/ defendant has right to run the same after getting permission from the appropriate authority, subject to the condition that his act should not cause any loss to the house of the plaintiff and his act should not pollute the environment with noise. During cross-examination of AW1 Lakhvir Singh, the reply of which has been given as “that respondent Harpreet Singh has filed an appeal, that applicant has also filed an appeal and that the date for both the appeal is one,” the counsel for defendant/ respondent wants to say that appeal against the judgment and decree is pending but it has nowhere been proved by the respondent that he applied for permission from the appropriate authority or he is going to obey the decree and even no application for seeking permission from appropriate authority regarding sanction to run the workshop in residential area has been moved and as such it can be concluded that respondent has violated the judgment and decree dated 26.10.2023.

Accordingly, this issue is hereby decided in favour of the applicant.”

Assailing the afore-said order, learned counsel has drawn attention towards Annexure P.5 in order to contend that after decree dated 26.10.2023, the judgment debtor- petitioner has obtained the certificate of registration as issued under The Punjab Shops and Commercial Establishments Act, 1958. A perusal of the Annexure P.5 would simply reveal that the shop of the petitioner has been registered under the provisions of The Punjab Shops and Commercial Establishments Act, 1958. This certificate does not reveal that the concerned



Inspector had inspected the shop or necessary permission to run the shop at the particular place in any particular manner was granted.

In view of the afore-said circumstances, this Court does not find any merit in this petition.

Dismissed.

July 25, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No