

2024:PHHC:084127



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

CR-3725-2024

Decided on:-08.07.2024

Harpreet Singh

....Petitioner..

vs.

M/s Jaspal Joginder Kumar and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ishan Gupta, Advocate with
Ms. Palvi, Advocate,
for the petitioner.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition filed under Article 227 of the Constitution of India, challenge has been laid to an order dated 20.05.2024 (Annexure P-1) passed by the Court of Additional Civil Judge (Senior Division), Sangrur, whereby, an application filed under Order 38 Rule 5 CPC for seeking attachment of property belonging to the respondents-defendants in a suit for recovery, filed at the instance of petitioner-plaintiff, stands dismissed.

2. The sole contention raised on behalf of the petitioner is that the application has been declined by the Trial Court for the reasons that the ingredients of Order 38 Rule 5 CPC were not fulfilled as the necessary averment as regards the respondents-defendants being about to dispose of their property besides removing the whole or any part thereof from the local limits of the jurisdiction of the Court, were not prima facie established.

3. Learned counsel for the petitioner submits that he may be permitted to withdraw the present revision petition, however, with liberty to file fresh application invoking Order 38 Rule 5 CPC as and when any *prima facie* evidence regarding the respondents-defendants being about to dispose of the whole of the property or to remove it from the local limits of the jurisdiction of the Court is available with the petitioner-plaintiff.

4. The prayer made on behalf of the petitioner appears to be reasonable and thus, the present petition is disposed of in terms thereof with aforementioned liberty to the petitioner. In case, any fresh application is filed on behalf of the petitioner-plaintiff, the trial Court is requested to decide the same on merits of the contents set out there in, without being influenced by the observations made by the trial Court in the impugned order.

08.07.2024

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/ No