

2024:PHHC:101186



143 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4147-2024
Decided on:-06.08.2024

Anita and othersPetitioners..

vs.

Ajay Singh Gehlawat and othersRespondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ashwani Gaur, Advocate for
Ms. Shivangi Sharma, Advocate,
for the petitioners.

Mr. Chandeeep Singh, Advocate,
for respondent No.5-SBI.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition filed under Article 227 of the Constitution of India, prayer has been made for issuance of direction to the trial Court to decide the application filed by the petitioners invoking Order 39 Rules 1 and 2 of CPC, seeking *ad-interim* injunction restraining respondent No.1-defendant No.1 not to take possession of the street in dispute forcibly and illegally, filed in Civil Suit bearing No.1732/2023, titled as ***“Anita and others vs. Ajay Singh Gehlawat and others”***, expeditiously preferably in a time bound manner.

2. In the present case, suit for declaration qua the easementary right of necessity of the street/path, came to be filed at the instance of petitioners/plaintiffs against the respondents-defendants, besides claiming mandatory injunction along with consequential relief of permanent

injunction. Along with the suit, an application under Order 39 Rules 1 and 2 CPC was also filed.

3. Vide order dated 18.12.2023, notice of the suit as well as injunction application was issued for 04.01.2024 and on the said date, respondent No.3-defendant No.3 was proceeded against ex-parte and the case was adjourned to 22.01.2024 for filing written statement as well as reply to the stay application on behalf of respondents-defendants No.1, 2, 4 and 5. On 12.02.2024, a request was made for transfer of the case, which came to be allowed and the case was transferred to the Court of learned Civil Judge (Senior Division) Sonipat. Due to change of circumstances, on 15.02.2024, petitioners-plaintiffs moved 2nd application for *ad-interim* mandatory injunction and on the same date, an application under Order 7 Rule 11 CPC for rejection of plaint was also moved on behalf of respondent No.1-defendant No.1. Subsequently, reply to the application under Order 7 Rule 11 CPC was filed, but till date no reply to the application under Order 39 Rules 1 & 2 CPC has been filed and the suit is being adjourned time and again for the said purpose.

4. Learned counsel for the petitioners submits that the applications (Annexures P-2 and P-9) are pending for the last almost 7/6 months; but till date no reply has been filed on behalf of respondents-defendants No.1, 2, 4 and 5, thus, he prays for issuance of direction to the trial Court to decide the same expeditiously within a time bound manner.

5. I have heard learned counsel for the parties and gone through the paper book.

6. Perusal of paper book shows that the applications (Annexures P-2 and P-9) filed in the suit, at the instance of petitioners-plaintiffs, seeking

ad-interim mandatory injunction, is pending for the last almost 7/6 months and still the same is at the stage of filing of reply of the application under Order 39 Rules 1 and 2 CPC, on behalf of respondents-defendants No.1, 2, 4 and 5.

7. Considering the aforesaid facts, the Trial Court is requested to decide the applications (Annexures P-2/P-9) within a period of 04 weeks from the date of receipt of certified copy of this order.

06.08.2024
sonika

(HARKESH MANUJA)
JUDGE

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