



CR-4258-2024

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

1. CR-4258-2024

Lali Devi
... Petitioner

Versus

Vijay Pal and others
... Respondents

2. CR-4268-2024

Lali Devi
... Petitioner

Versus

Vijay Pal and others
... Respondents

3. CR-4271-2024

Lali Devi
... Petitioner

Versus

Vijay Pal and others
... Respondents

4. CR-4280-2024

Lali Devi
... Petitioner

Versus

Vijay Pal and others
... Respondents

Date of decision : 02.08.2024



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CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Akshay Bhan, Senior Advocate with
Mr.Santosh Kumar Sharma, Advocate,
Mr.Harsh Vasu Gupta, Advocate and
Mr.Ashutosh Dhankar, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

1. The present order would dispose of four revision petitions filed by the petitioner with respect to four different suits.

2. The issue involved in all the revision petitions is common and thus, the same is being disposed of with the present common order. The case CR-4258-2024 is treated as the lead case and the facts are noticed from the same.

3. Respondents no.1 to 16 had filed civil suit in the year 2018 for declaration with consequential relief of permanent and mandatory injunction and along with the said suit, had filed application under Order 39 Rules 1 and 2 CPC. The learned Civil Judge (Jr.Div.), vide order dated 01.10.2018 issued notice to the unserved defendants but did not grant any ad-interim injunction which was prayed for by the plaintiffs/respondents no.1 to 16. An appeal was preferred against the said order by the plaintiffs / respondents no.1 to 16 and vide order dated 08.08.2019, it was observed by the Additional District Judge that the said appeal was not maintainable and was disposed of accordingly. Respondents no.1 to 16 filed a revision petition against the said order and a Coordinate Bench of this Court vide order dated 18.03.2024 observed that the appeal was maintainable and thus, the matter was remanded to the Ist Appellate Court to decide the said appeal

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on merits. The Ist Appellate Court vide impugned order dated 09.07.2024 has allowed the said appeal. The relevant portion of the said impugned order dated 09.07.2024 which is subject matter of Civil Revision no.4258-2024 is reproduced hereinbelow:-

“19. As a result, the impugned order dated 01.10.2018 is set aside, and an ad-interim injunction is granted. The execution of the order dated 30.05.2018 is stayed, and Defendant No.1 is restrained from seeking to dispossess the plaintiffs from the property until the application under Order 39 Rule 1 &2 CPC is adjudicated by the learned Trial Court. The appeal is accordingly allowed.

20. It is further clarified that nothing hereinabove observed shall be considered as an observation on the final merits of the case. The aforesaid observations are confined to adjudicating the ad-interim injunction and shall not influence the decision on Order 39 Rules 1 and 2 CPC or on the final merits of the case.

21. A memo of costs shall be prepared. The trial Court record shall be sent back along with a copy of this judgment. The appeal file shall be consigned to records after due compliance.”

4. Similar orders have been passed in respect to three others suits, which are subject matter of challenge in the other three revision petitions.

5. It is not in dispute that the application under Order 39 Rules 1 and 2 CPC has not been decided by the trial Court and the same is still pending adjudication. A perusal of the above order would show that it has been clarified by the Additional District Judge, Gurugram that nothing stated in the order would be considered as an observation on the final

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merits of the case and the observations are confined to adjudicating the ad-interim injunction and shall not influence the decision on Order 39 Rules 1 and 2 CPC or on the final merits of the case.

6. Learned senior counsel for the petitioner has submitted that the observations made by the Ist Appellate Court, moreso in paragraphs 13 to 16, are contrary to law and has prayed that the application under Order 39 Rules 1 and 2 CPC be decided de hors the observation which have been made in the said paragraphs and the present petitioner be granted liberty to raise all the pleas which are available to her to show that the order dated 30.05.2018 passed by the Collector is legal and in accordance with law. It is further prayed that since the suit was filed in the year 2018, the trial Court be directed to decide the application under Order 39 Rules 1 and 2 CPC in a time bound manner.

7. Keeping in view the abovesaid facts and circumstances and prayer made on behalf of the petitioner, the present revision petitions are disposed of with the following observations:-

- i) Although it has been clarified by the Additional District Judge, Gurugram that the observations made in the impugned order dated 09.07.2024 would not be considered as an observation on the final merits of the case and they are confined to the decision of the ad-interim injunction but it is further clarified that the application(s) under Order 39 Rules 1 and 2 CPC, which are pending adjudication before the trial Court, would be considered by the trial Court without taking



into consideration the observations made in the impugned order (s) including observations made in paragraphs 13 to 16. It would be open to the petitioner as well as the respondents to raise all pleas which are available to them in law including the pleas in support of and against the legality of the order dated 30.05.2018. The trial Court, while deciding the application(s) under Order 39 Rules 1 and 2 CPC, would independently consider the same after taking into consideration the arguments raised by both the sides.

ii) Since the suit(s) has been filed in the year 2018, thus, the learned trial Court is requested to expedite the decision on the application(s) under Order 39 Rules 1 and 2 CPC and is further requested to decide the said application(s) within a period of three months from the date the pleadings in the said cases are completed.

8. It is made clear that this Court has not given any opinion on the merits of the case and the application under Order 39 Rules 1 and 2 CPC would be considered independently, in accordance with law.

(VIKAS BAHL)
JUDGE

August 02, 2024
Davinder Kumar

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