

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

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**CR-4777-2023 (O&M)
Reserved on:06.02.2024
Pronounced on:13.02.2024**

Ram Singh Chawla & another

... Petitioners

Vs.

Sukhwinder Singh @ Surinder Singh @ Surinder Kumar & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. APS Sandhu, Advocate for the petitioners.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed against the order dated 25.05.2023 (Annexure P-10) passed by the Civil Judge (Jr. Division), Amritsar, vide which application filed by the plaintiffs/petitioners under Section 151 CPC seeking permission to raise the wall damaged and broken by the respondents despite of ad-interim injunction granted vide order dated 15.02.2022 has been dismissed being not maintainable.

2. The relevant facts which are relevant for adjudication of the present revision petition are that the revision petitioners/plaintiffs filed a suit for permanent injunction for restraining the defendants, their attornies, relatives, allies, friends etc. from damaging the shutter, decoration panels, counters, roof of the shop private No.3 in property bearing No.177-B, Muslim Ganj Road, Shiwala Colony, Amritsar as detailed in the head note of the plaint. The permanent injunction was also sought from dispossessing the plaintiffs from the said shop by way of force, threat etc. except in due course

of law.

3. Case of the plaintiffs as alleged in the plaint is that the plaintiffs were inducted as tenants in the aforesaid shop at the rate of Rs.900/- per month. Tenancy was oral and to reduce the terms of the tenancy into writing, rent note dated 06.09.1993 was executed by the plaintiffs in favour of defendant No.2 – Mangal Singh, who purported himself to be the landlord of the property. Plaintiffs are working in the disputed shop under the name and style of Chawla Automobiles and are in possession over the same. Earlier Mangal Singh had filed a rent application titled as Mangal Singh Vs. Ram Singh being RP No.103/2016 before the Rent Controller, Amritsar on the ground of bonafide need but it was dismissed as withdrawn vide order dated 16.04.2021. This factum was brought in the written statement filed in the said application that he had not been the owner of the property on the date of creation of the tenancy and ground of bonafide need was also negated. It was alleged that even in the past, said Mangal Singh had raised dispute with the plaintiffs and the adjoining tenants and the matter was referred to the police authorities. The petitioners filed a contempt application under Order 39 Rule 2-A CPC against the respondents. Further it has been alleged that on the night of 31.01.2022 at about 9:52 p.m., son of Mangal Singh started damaging sign boards of the plaintiffs and also damaged the hanging goods and shutter of the shop which was also recorded in the CCTV footage. In the morning when the matter was inquired from Surinder Singh and Mangal Singh then Sukhwinder Singh threatened them that they would damage the roof of the shop by pouring water, to make a ground of property having become unfit and unsafe for human habilitation and also threatened to take

forcible possession of the disputed shop which led to the filing of the present suit. Then vide order dated 15.02.2022 in the said suit, Civil Judge, Jr. Division, Amritsar granted interim injunction while restraining the defendants from interfering into the peaceful possession of the plaintiffs except in due course of law and from causing any damage to the property in dispute, till further orders.

4. In the application filed under Section 151 CPC for permission to raise the wall damaged and broken by the respondents, it has been alleged that despite passing of the aforesaid order dated 15.02.2022, on the intervening night of 24/25.12.2022, the respondents broke side wall of the shop in dispute towards the passage and in this regard, an FIR was also got registered by the plaintiffs against the defendants. It was also alleged that side wall on account of massive damage and breaking by the defendants is now open towards the backside and side wall and to avoid the entry of the defendants in the shop in dispute, the said open area was covered with tarpolene. But huge and costly spare parts are lying in the said shop and the defendants may interfere in the day to day working of the plaintiffs. So the plaintiffs filed an application before the Civil Judge, Jr. Division, Amritsar under Section 151 CPC for permission to raise the wall damaged and broken by the defendants inspite of passing of interim injunction order dated 15.02.2022 or in the alternative directions to the respondents to raise the wall broken and damaged by them. Reply to the said application was also filed by the respondents, in which the respondents have denied that they had broken or damaged the property as alleged and they had not committed any contempt of Court. As property was about 60 years old and condition of the

property is deteriorated, so the wall of the shop on the side of the passage which was 4.5 inch thick and old one, had fallen at its own, even much before filing of the present suit. The said application was dismissed by the Civil Judge, Jr. Division, Amritsar vide the impugned order dated 25.05.2023. So aggrieved against the said order, the revision petitioners have knocked the doors of this Court by filing the present revision petition.

5. I have heard learned counsel for the petitioners at length and perused the records of the case.

6. Learned counsel for the petitioners has contended that the impugned order dated 25.05.2023 is arbitrary, illegal and is liable to be set aside on the ground that once the trial Court has granted ad interim injunction in favour of the petitioners under Order 39 Rule 1 & 2 CPC and when in violation of the said ad interim order, respondents/defendants have tried to interfere in the possession of the petitioners and had damaged the the property in possession of the petitioners, then the Court has ample power under Section 151 CPC to restore the party to the original position which existed when the interim order was passed. So dismissal of the application filed under Section 151 CPC on account of maintainability was completely against the settled law. In this respect, he has placed reliance upon **Tanusree Basu & others Vs. Ishani Prasad Basu & others (2008) 4 SCC 791, Meera Chauhan Vs. Harsh Bishnoi & another, Civil Appeal No.5783 of 2006 (Arising out of SLP(C) No.18762-2002 decided on 13.12.2006 and Naresh Saini and Sunil Chauhan (CR-1714-2021) (O&M) decided on 23.01.2023.**

7. No doubt it is well settled law that when parties violate order of

injunction or stay order or act in violation of the said order, the Court by exercising its inherent powers can put back the parties in the same position as they stood prior to issuance of injunction order or order police protection for implementation of such order. The case law that has been relied upon by the counsel for the petitioner is pertaining to forcible dispossession during the pendency of the suit.

8. But in view of the facts and circumstances of the present case, the trial Court has rightly held that if the respondents who were landlords of the property in dispute have not complied with the provisions of Sections 10 and 12 of the East Punjab Urban Rent Restrict Act, 1949, then the proper remedy for the petitioners/plaintiffs is to move a separate application under the said Act, as separate inquiry is required to be conducted by the Rent Controller on the said application for the purpose of passing necessary orders or directions.

9. In the light of the above, the impugned order does not suffer from any illegality or perversity.

10. Being bereft of any merit, the present revision petition is dismissed.

(SUKHVINDER KAUR)
JUDGE

13.02.2024

harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |