



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

(127)

CR-4629-2024**Date of Decision: 02.12.2024**

Ramesh Kumar

.....Petitioner

Versus

Municipal Corporation Karnal

....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Aashish Gupta, Advocate for
Mr. Vikram Singh, Advocate for the petitioner.

VIKAS SURI, J. (Oral)

1. This is a revision petition under Article 227 of the Constitution of India for setting aside order dated 20.02.2024 (Annexure P-6) and order dated 26.07.2024 (Annexure P-16) passed by learned Civil Judge (Junior Division), Karnal.
2. The brief facts of the case are that the plaintiff/petitioner filed a suit for permanent injunction against the defendant/respondent. Along with the suit, an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short 'CPC') was filed. Vide order dated 20.02.2024 (Annexure P-6), the prayer of the petitioner for grant of *status quo* was declined. Thereafter, an application was moved to decide the application under Order 39 Rules 1 and 2 CPC which also stands rejected vide order dated 26.07.2024 (Annexure P-16).
3. Aggrieved by the aforesaid orders, the plaintiff/petitioner has invoked jurisdiction by way of present petition. On 28.08.2024, learned counsel for the petitioner had sought time to assist the Court on the issue



whether the impugned order declining the prayer for *status quo* would be revisable or appealable. Thereafter, the earlier counsel made a statement that the case brief had been taken back by the petitioner to engage another counsel. Learned counsel for the petitioner submits that in the backdrop of the above, the present counsel has been engaged.

4. On resumed hearing today, learned counsel appearing for the petitioner candidly concedes that the impugned order dated 20.02.2024 (Annexure P-6) is appealable under the provision of Order 43 Rule 1 CPC. He, thus, seeks withdrawal of challenge to the said order with liberty to impugn the same by way of an appeal thereagainst. It is further submitted that the interlocutory order dated 26.07.2024 (Annexure P-16), whereby the application to decide the stay application under Order 39 Rules 1 and 2 CPC has been dismissed, is not an appealable order and the instant petition be treated against the said order only.

5. Heard learned counsel for the petitioner and perused the case file.

6. Admittedly, the prayer of the petitioner seeking an order of *status quo* was declined, vide order dated 20.02.2024, with the following observations:-

“At this stage, there are no such material on the case file to say that defendant wants to change the nature of ‘rasta-in-question’. Even there are no such photograph in this regard on the case file whereas it is not in dispute that defendant is owner of ‘rasta-in-question’. Without substance, it is only apprehension of plaintiff and therefore no ground is made for plea of status quo and same is hereby **declined** accordingly.”

The aforesaid order is yet to be assailed before the appellate Court.



7. The above extracted observations came to be passed by the trial Court at the very initial stage of the suit. The application under Order 39 Rules 1 and 2 CPC is still pending adjudication and it is expected to be disposed of in a timely manner. Learned counsel for the petitioner submits that much water has flown since the order dated 20.02.2024 was passed. The response of the defendants has also come on record. Moreover, seven applicants have filed an application under Order 1 Rule 10 CPC for impleadment in the suit. A deliberate effort is thus being made to delay the decision of the pending stay application and further deferring the trial, as such.

8. Be that as it may, even though the trial Court may have declined to pass an ad interim order in favour of the plaintiff, as noticed above, the application filed under Order 39 Rules 1 and 2 CPC is still to be decided in a timely manner, in accordance with law.

9. In view of above, the instant revision petition is disposed of with liberty to the petitioner to avail appropriate legal remedy against the order dated 20.02.2024 (Annexure P-6), as well as to revive his prayer before the trial Court for an expeditious decision of his application under Order 39 Rules 1 and 2 CPC.

10. All pending applications, if any, stand disposed of accordingly.

December 02, 2024

d.gulati

(VIKAS SURI)
JUDGE

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