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

CR-5271-2024

Date of decision: 13.09.2024

Mahipal and others

...Petitioners

Versus

Jain Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Nonish Kumar, Advocate for the petitioners.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 30.08.2024 (Annexure P-12) passed by the Civil Judge (Junior Division), Karnal whereby the application for grant of police help has been allowed.

2. Brief facts of the present case are that the respondents had filed a suit for permanent injunction restraining the petitioners from interfering/dispossessing the respondents from the land measuring 23 kanals 0 marlas as detailed in para No.2 of the plaint. Along with the suit, an application under Order 39 Rules 1 and 2 of CPC was also filed. The trial Court after hearing both the parties, had allowed the said application vide order dated 31.08.2023 in the following terms :-

*“Consequently, in view of the above said discussion, this application is hereby allowed and **the defendants are hereby***



*restrained from interfering into the possession and from dispossessing the plaintiffs and other legal heirs of deceased Ratiram from the land detailed in paragraph no.2 of the **plaint**, till the final disposal of the case. Nothing expressed herein shall be construed as my expression on the merits of the case.”*

3. A perusal of the impugned order dated 30.08.2024 (Annexure P-12) would show that against the said order dated 31.08.2023, the petitioners had filed an appeal which was dismissed by the Additional District Judge, Karnal on 07.11.2023 and the petitioners had further filed a revision petition which was dismissed by this Court vide order dated 08.05.2024, and although the said orders have not been annexed but the said aspects have not been disputed by the learned counsel for the petitioners before this Court. It is thus, apparent that the positive order of injunction granted in favour of the respondents has attained finality.

4. The respondents had moved an application (Annexure P-10) for providing police help for implementation of the order dated 31.08.2023 which was subsequently upheld and reply (Annexure P-11) to the said application was filed by the petitioners. The trial Court, vide order dated 30.08.2024, after taking into consideration the fact that positive injunction granted in favour of the respondents has been upheld upto the High Court, had observed that the respondents-plaintiffs were entitled to enjoy their rights without any interference and were also entitled to police help for effective implementation of the said injunction order. Accordingly, the application was allowed and the SHO, Police Station Gharaunda was directed to assist the plaintiffs/respondents for effective implementation of the injunction order



dated 31.08.2023.

5. Learned counsel for the petitioners has submitted that by way of providing police help to the respondents, the Court would be helping the respondents in establishing their possession, as it is the case of the present petitioners that it is they who are in possession of the suit land and by virtue of evidence, they would be able to prove the same during the course of trial. It is submitted that thus, the impugned order be set aside and the application under Section 151 of CPC be dismissed. It is further submitted that in case of any violation of the order, it would be open to the respondents to file an application under Order 39 Rule 2A of CPC and the present application under Section 151 of CPC is not maintainable.

6. This Court has heard learned counsel for the petitioners and has perused the paper book.

7. A Coordinate Bench of this Court in the case of **Gram Panchayat, Daroli Jat Vs. Smt. Lokesh Devi**, reported as **1999(2) PLR 741**, while dealing with a similar matter had observed that the provision of Order 39 Rule 2A would not divest the Court of its inherent powers and inherent jurisdiction under Section 151 of CPC to prevent the abuse of process of the Court and to rescue a person who in spite of an order of injunction is apprehending forcible dispossession in violation of the said order. Relevant portion of the said judgment is reproduced hereinbelow:-

*“2. The contention of the learned counsel for the petitioner is that once an order of injunction is issued by the Court, **it has no inherent jurisdiction to direct police help and the only remedy left with the party in whose favour injunction has been issued, is to invoke the provisions of Order 39 Rule 2A of the***



Code of Civil Procedure. In other words, existence of provisions of Order 39 Rule 2A ousts the inherent jurisdiction of Court to pass the orders like the one impugned in this revision.

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5. ***It is true that provisions of Order 39 Rule 2A would come into play once an order of injunction is flouted by any person but that certainly do not divest the Court of its inherent powers and inherent jurisdiction. The Legislature while granting inherent powers to the Civil Courts under Section 151 of the Code, have without ambiguity worded the Section in a very wide language. The pervasive intent behind the provisions cannot be restricted as it would amount to acting contrary to the legislative intent. It would be a total mis-construction of the Code to say that a Court in case where injunction order is passed in favour of the party, must wait till the time the order is flouted and then adopt the procedure provided under Order 39 Rule 2A upon an application of the party. In other words, the Court must sit and watch violation of its orders first and take no recourse to its inherent powers to see that the orders passed are implemented in their true spirit and substance.***

6. The contention of the learned counsel for the petitioner is devoid of any merit for another reason. There is a clear and definite distinction between a punitive action resulting from breach of order of the Court on one hand or enforcement of an order or protection available to a party under the order of the Court on the other. In other words, the concept of punitive action cannot be termed as a panacea to the various problems and situations which are likely to arise before the Civil Courts during the course from the date of institution of the suit till its decision. ***The provisions of Order 39 Rule 2A, therefore, would not have the effect of frustrating or controlling the jurisdiction vested in the Court in exercise of inherent powers***



*under **Section 151** of the Code of Civil Procedure and would prevent the abuse of process of Courts to meet the ends of justice. Leaving parties to multifarious actions in the suit where interim orders are passed, cannot be treated as a solution to a threatened violation of the orders of the Court, nor could that be the intent of the legislation.....*

7. Every person is under a legal duty and obligation to comply and/or ensure compliance of the orders of the Court unless they are varied or altered. Furthermore, no person can be permitted to take the law in his own hands and to flout the orders of the Court. Inherent powers must come to the rescue of the person who inspite of an order of injunction is being threatened forcible dispossession in violation of the said order.

8. I am unable to see any error or jurisdiction in the impugned order though the same has been worded with a specific direction. Infact, all that the order meant is that the SHO concerned should ensure compliance of the orders of the Court which has become final between the parties.....

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8. In the abovesaid case also, the injunction was granted in favour of the plaintiffs therein to the effect that the respondents therein were restrained from dispossessing the plaintiffs therein till the disposal of the suit and the said order had attained finality and it was in the said circumstances, the application for police help was allowed and the order allowing the same was upheld by this Court.

9. A Coordinate Bench of this Court in the case titled as “**Thakur Dass Vs. Harijan Sudhar Samiti**” reported as **1995(1) PLR 544**, had observed that in case where the police help was sought, it was the duty of the trial Court to take all necessary steps and to pass appropriate orders, which



would enable the plaintiffs therein to give effect to the earlier order dated 05.06.1993 and thus, the order of the trial Court which had refused to allow the application for seeking police help was set aside and the trial Court was directed to issue appropriate instructions to the local police to help the petitioners therein in complying/implementing the order dated 05.06.1993.

10. In the present case, the trial Court, after hearing both the parties, had allowed the application under Order 39 Rules 1 and 2 of CPC filed by the respondents-plaintiffs and had granted positive injunction in favour of the plaintiffs. The said order has attained finality as appeal therefrom has been dismissed by the First Appellate Court and the revision has also been dismissed by this Court. In spite of the said positive injunction, it is the case of the respondents-plaintiffs that the present petitioners are interfering in their possession and thus, they sought police help. The argument of learned counsel for the petitioners to the effect that it is open to the respondents to file an application under Order 39 Rule 2A deserves to be rejected, as the said aspect has been considered by the Coordinate Bench of this Court in the case of ***Gram Panchayat, Daroli Jat*** (Supra) and while rejecting the similar argument raised by the defendants therein, it was observed that the inherent powers under Section 151 are very wide and the party, who has a positive injunction in his favour which had been granted, after hearing both the parties, cannot be made to wait and adopt the procedure provided under Order 39 Rule 2A and to further await its decision without having any recourse to seek implementation of the said order and that provision of Order 39 Rule 2 A would not have the effect to frustrate or control the jurisdiction vested in the Court to exercise its inherent powers under Section 151 of the



Code of Civil Procedure to meet the ends of justice. It was further observed that every person is under a legal duty and obligation to comply and/or ensure compliance of the orders of the Court unless the same are varied or altered and no person can be permitted to take the law in his own hands and flout the orders of the Court and thus, the inherent powers under Section 151 could be exercised in allowing the application for police help.

11. In the present case, the very fact that the petitioners are seeking to challenge the order granting police help also shows that the apprehension of the respondents-plaintiffs to the effect that the present petitioners are forcibly trying to dispossess them, is correct. At any rate, it is the duty of the Court to see that order passed by the Court is implemented. Even the argument of the learned counsel for the petitioners to the effect that by virtue of grant of police help, their main suit would be prejudiced is misconceived, inasmuch as, the main suit would be decided on the basis of evidence led by the parties and it is only for the interim period, till the time the injunction in favour of the respondents-plaintiffs is in operation, that the order dated 30.08.2024 would be in operation.

12. Keeping in view the abovesaid facts and circumstances, the impugned order dated 30.08.2024 is in accordance with law and deserves to be upheld. Hence, the present revision petition being meritless, deserves to be dismissed and accordingly, the same is dismissed.

13.09.2024

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No