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

CR-4279-2024 (O&M)
Date of decision: 16.07.2025

Jaswinder Kaur

...Petitioner

Versus

Mandeep Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Anmol Puri, Advocate and
Mr. Shirin Mudgil, Advocate for the petitioner.

Mr. Dhiraj Jindal, Advocate for the respondents.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 16.07.2024 (Annexure P-13) passed by the Civil Judge (Junior Division), Dhuri whereby the application (Annexure P-11) for providing police help to implement order dated 09.03.2023 has been dismissed.

ARGUMENTS ON BEHALF OF THE PETITIONER:-

2. Learned counsel for the petitioner has submitted that in the present case, the petitioner had filed a suit against the respondents/defendants for a decree of permanent injunction restraining the defendants from interfering in the construction work and also restraining the defendants from obstructing the plaintiff from raising construction of the



residential house in the abadi property and along with the suit, the petitioner had filed an application under Order 39 Rules 1 and 2 CPC and the trial Court, vide order dated 09.03.2023, after hearing both the parties concerned, had allowed the said application filed under Order 39 Rules 1 and 2 CPC and had granted positive injunction in favour of the petitioner and had restrained the respondents from interfering into the construction work of the house of the applicant/present petitioner. It is submitted that although respondent No.1 had filed an appeal against the same, but there is no interim in the said appeal and the order dated 09.03.2023 still holds good. It is submitted that thereafter, the petitioner, in accordance with the right given in the order, had started raising construction but the respondents interfered with their construction work on 29.03.2023 and even threatened to kill the labour who was doing the construction and thus, the petitioner had filed an application before the SHO, Police Station Sadar Dhuri dated 29.03.2023. In the said regard, it is submitted that similar applications were also filed before the Deputy Commissioner, Sangrur as well as Director General of Police, Punjab and had further filed an application dated 10.05.2023 before the trial Court for providing police help for implementation of order dated 09.03.2023.

3. It is submitted that specific details of the obstruction caused by the respondents were mentioned in paras 4 and 5 of the said application and reference was also made to video having been made by the husband of the petitioner in order to show threats given by the respondents to the petitioner from raising construction. It is argued that the trial Court, instead of allowing the said application and implementing the injunction order passed



in favour of the petitioner, has dismissed the said application vide impugned order dated 16.07.2024 by observing that the petitioner had already filed an application Order 39 Rule 2A CPC and the question as to whether the defendants/respondents actually restrained the plaintiff/present petitioner in her construction work or not, is a matter of evidence and till the time, specific finding regarding the same is not given in the said proceedings under Order 39 Rule 2-A CPC, the Court does not deem it appropriate to pass any order on the application filed by the petitioner. It is submitted that the said view taken by the trial Court is in violation of the law laid down by the Coordinate Bench of this Court in the case of **Ashish Munjal Vs. Ashok Kumar and another** reported as **2020(4) RCR (Civil) 544**, as well as by the Coordinate Bench of this Court in the case of **Ishwar and others Vs. Asha Ram and others** reported as **2015(3) PLR 578**. It is submitted that in the said circumstances, the impugned order be set aside and the application filed by the petitioner be allowed.

ARGUMENTS ON BEHALF OF THE RESPONDENTS:-

4. Learned counsel for the respondents, on the other hand, has opposed the present revision petition and has submitted that the impugned order has been passed in accordance with law and deserves to be upheld. It is submitted that once, the petitioner had filed an application under Order 39 Rule 2A CPC, then, the present application for providing the police help is not maintainable. It is submitted that the defendants never interfered in the construction being raised by the petitioner. It is stated that the present revision petition is meritless and thus, the same be dismissed.

ANALYSIS AND FINDINGS:-



5. This Court has heard learned counsel for the parties and has perused the paper book and finds that the impugned order dated 16.07.2024 is against law and deserves to be set aside and the application filed by the petitioner for providing police help for implementation of the order dated 09.03.2023 is in accordance with law and deserves to be allowed for the reasons stated hereinafter.

6. It is not in dispute that the petitioner had filed a suit for permanent injunction against the respondents/defendants. The prayer made in the said suit is as under:-

“Hence it is prayed that a decree of Permanent Injunction restraining the defts from interfering in the construction work and also restraining the defts from obstructing the plaintiff from raising construction i.e. Residential House in the Abadi property fully described in the heading of the plaint and also restraining the defts from interfering in the peaceful user of the street existing on western side of the suit property shown in site plan may kindly be passed in favour of the plaintiff and against the defts with cost.”

7. It is also not in dispute that along with the said suit, an application under Order 39 Rules 1 and 2 read with Section 151 CPC was filed for issuance of ad interim injunction and the trial Court, after taking into consideration the averments made in the plaint as well as in the written statement and also in the application under Order 39 Rules 1 and 2 CPC and reply in the said application under Order 39 Rules 1 and 2 CPC, allowed the application filed by the petitioner in the following terms:-

“7. In view of the above discussion, the prima facie case and



*balance of convenience favours **the applicant** since the construction work is pending. The applicant also succeeded in pointing out irreparable loss The application stands allowed and the respondents are restrained from interfering into the construction work of the house of the applicant.*

Date of Order: 09.03.2023.

Sd/- (Harkamal Kaur)

CJJD-JMIC, Dhuri

UID-PB-00626”

8. It is not in dispute that although, respondent No.1 had filed an appeal against the said order but there is neither any interim order in favour of respondent No.1 nor the order dated 09.03.2023 has been set aside or modified and thus, the order dated 09.03.2023 is in operation. By virtue of order dated 09.03.2023, a positive injunction had been granted in favour of the present petitioner and the respondents had been restrained from interfering in the construction work of the house of the petitioner.

9. It is the case of the petitioner that on 29.03.2023, the petitioner in pursuance of the right granted in the abovesaid order had started raising construction of her house and that the respondents did not allow her to raise the said construction. It is further the case of the petitioner that a video was prepared to show the threats given by the respondents and interference caused by them in the construction work. The petitioner had filed an application dated 29.03.2023 (Annexure P-8) to the SHO, Police Station Sadar Dhuri for taking action against the respondents for disobeying the order. Similar applications were also given by the petitioner to the Deputy Commissioner, Sangrur dated 31.03.2023 (Annexure P-9) and the Director General of Police, Punjab dated 05.04.2023 (Annexure P-10). In addition to



the above, the petitioner had also filed an application for providing police help for implementation of the order dated 09.03.2023 passed by the trial Court and the said application dated 10.05.2023 has been annexed as Annexure P-11 with the present revision petition. Para 4 of the said application, in which specific averments have been made with respect to the act of the respondents to restrain the petitioner from raising the construction as also specific reference has been made to video prepared by the husband of the petitioner in order to demonstrate the said threats, is reproduced hereinbelow:-

“4. That the respondents have no regard for the order of the Hon'ble court. The applicant started construction work of her house on 29.3.2023 but the respondents did not allow the applicant to raise construction in her house. The applicant showed them order of the Hon'ble court dt. 9.3.2023 also in the presence of her husband Kuldeep Singh and Mistri Chand Singh etc and also reminded them that the said order has been passed after hearing them also and they are fully aware about the said order. therefore, they have no right to restrain the applicant from doing construction work of her house and they have no right to interfere in the construction work of the house of the applicant. However, the respondent No.3 and 4 at the instance of respondent No.1,2 and 5 threatened the mistri and labour also from raising construction of the house of the applicant. Therefore, the Mistri refused to raise construction due to threats by said respondent No.3 and 4. The respondent No.5 was also present there. The respondent No.3 and 4 in connivance and consiprarcy with respondent No.1,2 and 5 interfere in the construction work on 29.3.2023 and did not allow the applicant to raise construction of her house. Kuldeep Singh



husband of the applicant prepared a video of part of the threats directly caused by the respondent No.3 and 4 and interference in the construction work and the same is attached with application U//o 39 rule 2-A CPC. The applicant cannot raise construction except with the help of police.”

10. A reply was filed to the said application, in which it was prayed that the application filed by the petitioner be dismissed. The trial Court, vide order dated 16.07.2024, however dismissed the said application after observing that since the petitioner had filed an application under Order 39 Rule 2A CPC and the question as to whether defendants had actually restrained the petitioner in raising construction work or not, was a matter of evidence and till the time the specific finding regarding the same is not been given in the application under Order 39 Rule 2A CPC, the Court did not wish to pass any order in the application filed by the petitioner and dismissed the said application as being not maintainable. The reasoning given in the impugned order is absolutely against law.

11. A Coordinate Bench of this Court in the case of ***Ishwar and others*** (Supra) had observed that there was a distinction between punitive action to be taken resulting from breach of an order passed by the Court and enforcement of the said order and that every person was duty bound and under obligation to comply with the order passed by the Court and no one could be permitted to take law in his own hands and the Court has inherent powers to come to rescue of a person who, in spite of an order of injunction in his favour, was being threatened so as to violate the said order and that the Court had inherent power to grant police help to prevent violation of the



interim injunction or to enforce an injunction order. It was observed that the Court is not to wait till the time injunction is actually violated and the application under Order 39 Rule 2A CPC is finally decided, as sanctity of the orders of the Court has to be maintained. Relevant portion of the said judgment is reproduced hereinbelow:-

“4.The application seeking police help to protect the possession was filed by the petitioners as their possession was sought to be interfered with. The same was declined by the learned court below by passing a cryptic order. This court had opined that where found appropriate, police help should be granted to enforce an injunction order. It had further been opined that it would be a total misconstruction of the provisions of the Code of Civil Procedure to hold that in case an injunction order has been passed in favour of a party, he should wait till such time the same is flouted and then adopt the procedure provided under Order 39 Rule 2A CPC. There is a distinction between punitive action resulting from breach of an order passed by the court and enforcement of the order. Every person is duty-bound and under obligation to comply with and/or ensure compliance of the order passed by the court, unless varied or set aside. No one can be permitted to take law in his own hands and violate the orders passed. The courts having inherent powers should come to the rescue of a person, who in spite of an order of injunction is being threatened with forcible dispossession in violation of the order. The court under its inherent power can very well grant police help to prevent violation of the interim injunction.

5. In the case in hand, the stand of the petitioners is that despite interim injunction granted by the trial court restraining the respondents defendants from interfering into their cultivating possession of the suit land, which was upheld by the



*learned lower appellate court, **their possession was being interfered with by the respondents.** The stand of the respondents is that in fact, the land is shamlat. There are 786 co-sharers. They are not interfering in the possession of the petitioners. Be that as it may, the grievance of the petitioners is that their possession, which has been directed to be protected by the courts below, vide interim injunction order passed in their favour, is sought to be disturbed. The court is not to wait till such time the injunction is violated and the party in whose favour the order has been passed is pushed to the wall only letting him to file application under Order 39, Rule 2A CPC seeking punishment for violation of the injunction order. Sanctity of the orders of the court has to be maintained. They are meant to be complied with in true letter and spirit. Any one aggrieved can avail of appropriate remedy against the order. Once it is final, none can be allowed to question the same by taking law into his own hands.*

*6. **For the reasons mentioned above, the present petition is allowed. The impugned order passed by the court below is set aside. The application filed by the petitioners seeking police help to protect their possession on the suit property is allowed.***

Petition allowed.”

12. Similarly, another Coordinate Bench of this Court in the case of **Ashish Munjal** (Supra) had observed that merely because an aggrieved party has right to file an FIR or has a locus to file an application complaining violation of the interim order under Order 39 Rule 2A CPC, the aggrieved party would not be debarred from filing an application for grant of police help. It was further observed that the jurisdiction under Order 39 Rule 2A CPC is for punishment and the same cannot debar the



Court which granted injunction to pass appropriate orders in the facts of the case. The relevant portion of the said judgment is reproduced hereinbelow:-

“8. This Court has heard learned counsel for the parties and with their able assistance, gone through the documents filed. A Civil Court has the jurisdiction to get its interim orders implemented. Merely because aggrieved party has filed an FIR or has a locus to file application complaining violation of interim order, does not debar the aggrieved party to file an application for grant of police help.

9. Hence, the learned Trial Court erred in dismissing the application on the ground that defendant-petitioner has filed FIR and has a remedy complaining violation under Order 39 Rule 2-A CPC. The aforesaid jurisdiction is for punishment, however, it does not debar the Court which granted injunction to pass appropriate orders in the facts of the case.”

13. The law laid down in the abovesaid judgments would apply on all fours, in the present case. The injunction order is in force and thus, it is the duty of the Court to enforce the same. The averments made by the petitioner in the application as well as in the complaint before the police clearly show that there is a need for grant of police help to the petitioner for raising construction in accordance with the order passed by the Court. It is the duty of the Court to implement its orders and the respondents or any person cannot be permitted to make the orders passed by the Court ineffective on account of the pendency of the proceedings under Order 39 Rule 2A CPC, which may take a long time before being finally adjudicated as the same would require leading of evidence. Moreover, in the proceedings under Order 39 Rule 2A CPC, the issue that would primarily arise is “as to whether the respondents/defendants are to be punished for



violation of the interim order?”, whereas issue in the application for seeking police help is to seek implementation of the injunction order passed. The argument raised on behalf of the respondents before this Court is strange, on one hand, it is argued that the respondents are not interfering in the construction proposed to be raised by the petitioner whereas on the other hand, the application as well as the present revision petition, which would only seek to provide police help to raise the said construction is being opposed and a prayer has been made for dismissing the same.

14. Keeping in view the abovesaid facts and circumstances, the present revision petition is allowed and the impugned order dated 16.07.2024 is set aside and the application filed by the petitioner for providing police help (Annexure P-11) is allowed and the SHO, Police Station Sadar Dhuri is directed to provide necessary police help to implement the order dated 09.03.2023 passed by the trial Court, in accordance with law.

15. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

16.07.2025
Pawan

(VIKAS BAHL)
JUDGE

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