



CR-2017-2026 (O&M)

- 1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR-2017-2026 (O&M)

M/S KCB INFRA

....Petitioner

Versus

VARUNDEEP KAUR AND ANOTHER

.... Respondents

1.	Judgment reserved on	27.02.2026
2.	Judgment pronounced on	05.03.2026
3.	Judgment uploaded on	05.03.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced.	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	Nil

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Argued by : Mr. Aashish Chopra, Sr. Advocate with
Mr. Vaibhav Narang, Advocate and
Mr. Gagandeep Singh, Advocate for the petitioner.

YASHVIR SINGH RATHOR. J.(Oral)

1. This revision petition has been preferred against the order dated 28.01.2026 (Annexure A-10) passed by Civil Judge (Junior Division), SAS Nagar, Mohali in suit titled “Varundeep Kaur Vs. M/s KCB Infra and others”, vide which ex parte ad interim injunction has been granted in favour of plaintiff-respondent and petitioner-defendant No.1 and its agents have been restrained from handing over possession of, leasing, transferring, mortgaging, selling or otherwise alienating the suit property to defendant No.2, its agents or any other person



CR-2017-2026 (O&M)

- 2-

except in due course of law, till the next date of hearing i.e. up to 05.02.2026.

2. I have heard learned counsel for the petitioner and have gone through the record.

3. Learned Senior counsel representing the petitioner argued that one unit in the complex constructed by the petitioner-defendant was allotted to the plaintiff-respondent and after a dispute arose, plaintiff-respondent instituted a petition before Punjab Real Estate Regulatory Authority under Real Estate (Regulation and Development) Act 2016 (hereinafter referred to as “Act”) against the petitioner. The facts pleaded in the said complaint instituted before RERA are similar to as have been pleaded in the present suit and a direction has been sought against the promoter for handing over of physical possession of the DSS Unit No.55, on Ground Floor, in the project namely HLP Galleria, located in Sector 62, Mohali. Learned Senior counsel further contended that under the said Act, interim order, if any, could have been sought by the plaintiff but no such interim order has been prayed for before the said Forum. Instead, the plaintiff filed a separate suit before the Civil Court, claiming similar relief in which the impugned order has been passed. Learned Senior counsel next contended that Section 79 of the said Act bars jurisdiction of the Civil Court, which is reproduced as under:-

“79. Bar of jurisdiction. -No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the adjudicating officer or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.”



CR-2017-2026 (O&M)

- 3-

4. Learned Senior counsel further contended that Section 79 of the said Act clearly specifies that Civil Court has got no jurisdiction over the matters pertaining to jurisdiction of RERA Tribunal and the aforesaid provision expressly bars the jurisdiction of Civil Court in matters where Authority and Appellate Authority have been empowered and the Civil Court thus had no jurisdiction whatsoever to entertain the suit or to pass any order of injunction. The impugned order is thus a nullity and being without jurisdiction, is liable to be set aside in exercise of the revisional powers of this Court under Article 227 of the Constitution of India. In support of his contentions, learned Senior counsel has relied upon judgments passed by Hon'ble Supreme Court in (2001) 8 SCC 97, ***Estralla Rubber Vs. Dass Estate Pvt. Ltd***, Civil Appeal No.13801/2025, ***Shri Digant Vs. M/s P.D.T Trading Co. & Ors.***, (2020) 10 SCC 783, ***Imperia Structures Ltd. Vs. Anil Patni and Another*** and 2023 SCC Online Cal 3408, ***Joydeep Roy and Another Vs. Srijan Residency LLP and Others***.

5. However, I do not find any force in the contentions raised by learned Senior counsel for the petitioner and the case law cited by him is not at all applicable to the facts of the case in hand.

6. The impugned order has been passed by the Civil Court under Order 39 Rule 1 and 2 CPC and the same is appealable under Order 43 of CPC. The petitioner has got another remedy to move before the same Court for the vacation of stay in terms of Order 39 Rule 4 CPC, which provides that any order for an injunction may be discharged, or varied or set aside by the Court, on an application made thereto by any party dissatisfied with such order and relevant portion of the same is reproduced as under:-



4. *Order for injunction may be discharge, varied or set aside.- Any order for an injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order:*

[Provided that if in an application for temporary injunction or in any affidavit supporting such application a party has knowingly made a false or misleading statement in relation to a material particular and the injunction was granted without giving notice to the opposite party, the Court shall vacate the injunction unless, for reasons to be recorded, it considers that it is not necessary so to do in the interests of justice:]

7. Hon'ble Supreme Court in AIR 2000 (SC) 3032, **A. Venkatasubbiah Naidu Vs. S. Chellappan**, wherein a similar issue was considered, held as under:-

"9. Sri Sivasubramaniam, learned Senior Counsel, contended that the High Court should not have entertained a petition under Article 227 of the Constitution when the respondent had two remedies statutorily available to him. First, is that the respondent could have approached the trial court for vacating, if not for any modification, of the interim ex parte order passed. Second is that an appeal could have been preferred by him against the said order. It is open to the respondent to opt for either of the two remedies, contended the Senior Counsel. Section 104 of the Code says that an appeal shall lie from the following orders, and save as otherwise expressly provided in the body of this Code or by any law for the time being in force, from no other orders:

(i) any order made under rules from which an appeal is expressly allowed by rules.

Order 43 Rule 1 says that: An appeal shall lie from the following orders under the provisions of Section 104 namely;

(r) An order under Rule 1, Rule 2, Rule 2A, Rule 4 or Rule 10 of Order 39. Order 39 Rule 1 says thus: 1. Where in any suit it is proved by affidavit or otherwise -

(a) that any property in dispute in a suit is in danger of being wasted,



damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree or

(b) that the defendant threatens, or intends to remove or dispose of his property with a view to defrauding his creditors,

(c) that the defendant threatens to dispossess the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit, the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting , damaging, alienation, sale, removal or disposition of the property or dispossession of the plaintiff, or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit as the Court thinks fit, until the disposal of the suit or until further orders.

10. It cannot be contended that the power to pass interim ex parte orders of injunction does not emanate from the said Rule. In fact, the said rule is the repository of the power to grant orders of temporary injunction with or without notice, interim or temporary, or till further orders or till the disposal of the suit. Hence, any order passed in exercise of the aforesaid powers in Rule 1 would be applicable as indicated in Order 43 Rule 1 of the Code. The choice is for the party affected by the order either to move the appellate court or to approach the same court which passed the ex parte order for any relief.

19. Now what remains is the question whether the High Court should have entertained the petition under Article 227 of the Constitution when the party had two other alternative remedies. Though no hurdle can be put against the exercise of the constitutional powers of the High Court it is a well-recognized principle which has gained judicial recognition that the High Court should direct the party to avail himself of such remedies one or the other before he resorts to a constitutional remedy. The learned Single Judge need not have entertained the revision petition at all and the party affected by the interim ex parte order should have been directed to resort to one of the other remedies. Be that as it may, now it is idle to embark on that aspect as the High Court had chosen to entertain the revision petition.”

8. It is thus clear that any order passed in exercise of powers under



CR-2017-2026 (O&M)

- 6-

Order 39 Rule 1 CPC is appealable as provided in Order 43 Rule 1 of CPC. Besides this, an application under Order 39 Rule 4 CPC too can be moved, as the ex parte injunction was granted in favour of the plaintiff without issuing notice to defendants/petitioner.

9. Since, petitioner has got the aforesaid alternative remedies, the petition in hand cannot be entertained. There is no dispute about proposition of law laid down in the case law cited by learned Senior counsel for the petitioner but the same are not applicable to the facts of the case in hand. In ***Shri Digant's case (supra)*** the order passed by the trial Court was also assailed before the Appellate Court and thereafter revision petition was filed, whereas, in the present case, the ex parte order of injunction passed under Order 39 Rule 1 CPC has been straightaway challenged by way of revision petition, instead of availing the alternative remedies available to the petitioner.

10. As a result of the aforesaid discussion, there is no merit in the present revision petition. Accordingly, the revision petition preferred by the petitioner-defendant No.1 is ordered to be dismissed.

(YASHVIR SINGH RATHOR)
JUDGE

05.03.2026
amandeep

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No