



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR-2184-2026(O&M)

Date of decision: 09.03.2026

Nitya Mittal

...Petitioner(s)

Vs.

Mahesh Mittal & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Ankita Malhotra, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present Revision Petition has been filed by the plaintiff seeking setting aside of the order dated 24.02.2026 (Annexure P1) whereby application filed by the petitioner for pre-poning the next date of hearing from 01.05.2026, has been declined.

2. It is inter alia submitted by learned counsel for the petitioner that on 18.08.2025 the petitioner had filed suit for grant of decree of separate possession by way of partition. Along with the suit, the petitioner had filed an application under Order 39 Rules 1 and 2 read with Section 151 CPC. It is submitted that notice was issued in the suit as well as in the said application vide order dated 19.08.2025 (Annexure P2). However, thereafter, the matter has been adjourned by the learned trial Court on one pretext or the other



without rendering any decision upon the application for ad interim injunction filed by the petitioner. It is submitted that the reasoning recorded by the Ld. Trial Court that the suit is "recently instituted" and that "older matters are pending" cannot be a legally sustainable ground to deny protective consideration in a property dispute. Administrative burden or pendency of older matters cannot override judicial duty to prevent frustration of proceedings.

3. Ld. Counsel contends that refusal to prepone, effectively defeats the pending injunction application and renders the Petitioner remediless till 01.05.2026 (the next date of hearing), during which period the Respondents are already altering the nature of property. This amounts to failure to exercise jurisdiction vested in the Court to preserve the subject matter of litigation. It is submitted that the Ld. Trial Court failed to appreciate that in a partition suit involving immovable properties, preservation of property is paramount, and any alienation creates complications including impleadment of third parties and multiplicity of proceedings, thereby prejudicing substantive rights of the Petitioner. It is accordingly prayed that the impugned order be set aside.

4. In support of her contentions, learned counsel relies upon judgments of this Court in **CR-3204-2025 titled as "Balinder Kaur & Others Vs. Sidharth Singh & Another"** decided on 26.05.2025; and **CR-6622-2023 titled as "Bhupinderjit Kaur Vs. Punjab State Through Collector Gurdaspur & Others"** decided on 17.11.2023.



5. No other argument is raised on behalf of the petitioner. I have heard learned counsel and perused the record in detail. I find no merit in the submissions advanced on behalf of the petitioner.

6. The chronological sequence of events is as under: –

18.8.2025: The suit of the plaintiff has indeed been recently instituted less than one year ago only on 18.08.2025; along with an application under Order 39 Rules 1 and 2 read with Section 151 CPC.

5.9.2025: The respondents had filed application dated 05.09.2025 (Annexure P3) under Order 7 Rule 11 CPC seeking rejection of the plaint, in which the petitioner had sought time to file reply on 05.09.2025 and the matter was adjourned to 28.10.2025.

28.10.2025:- On 28.10.2025, at joint request, the matter was referred to Mediation; and matter was adjourned to 10.11.2025 to appear before the Mediator; and to 10.12.2025 before the Court.

10.12.2025:- In order dated 10.12.2025 (Annexure 5), it is recorded that the matter could not be settled between the parties and was accordingly adjourned to 12.01.2026 for arguments on the application under Order 7 Rule 11 CPC.

12.01.2026: However, as the learned ACJ was put on casual leave on 12.01.2026, filed was taken up on 09.01.2026 (Annexure P6), on which date none was present.



29.01.2026: Thereafter, the petitioner had filed application dated 29.01.2026 (Annexure P9) for pre-ponement of the matter; in which notice was issued by the learned ACJ vide order dated 29.01.2026 (Annexure P10) for 03.02.2026.

03.02.2026: On 03.02.2026, the matter was adjourned to 09.02.2026, for filing reply to the pre-ponement application.

09.02.2026: On 09.02.2026, again the matter was adjourned to 17.02.2026 for filing reply to the pre-ponement application.

17.02.2026: On 17.02.2026, the matter was again adjourned to 24.02.2026, for filing reply to the pre-ponement application.

24.02.2026: Reply dated 24.02.2026 (Annexure P14) was filed by the respondents to the pre-ponement application.

24.02.2026: Vide impugned order dated 24.02.2026, the said application of the petitioner has been dismissed by Civil Judge (Junior Division), Ambala.

7. Perusal of the above facts shows that there has been no delay occasioned on account of the learned trial Court. Petitioner has been unable to inform this Court if reply has been filed by the petitioner to the application of the respondent under Order 7 Rule 11 CPC. Petitioner has also been unable to demonstrate/establish the alleged cause of urgency that the respondent is in the process of alienating the suit property. Rather, it would appear that the petitioner herself is wasting precious judicial time in filing frivolous applications such as the present one.



8. Reasoning of the learned trial Court as contained in Para 5 of the impugned order is as under:-

“5. It is trite law that an application for preponement (advancing the date of hearing) in a suit is allowed or dismissed depending upon the urgency demonstrated and the potential for injustice if the matter is not expedited. In the present state of affairs, perusal of record reveals that suit has been instituted on 18.08.2025 and while was matter was adjourned to arguments on the Order VI Rule 11 application, an application to prepone the date of hearing was moved on 29.01.2026. In such freshly commenced litigation, the onus rests on the applicant plaintiff to establish, to the satisfaction of the court, the urgency involved to justify preponement. In present suit for partition, the applicant plaintiff submission that there is threat of immediate alienation, in hands of respondents defendants, of the properties in question categorically mentioned the plaint is not substantiated by any cogent and credible material on record. The underlying claim of improper alienation by means of transcript of call recording dated 13.09.2025 between respondent defendant no.2 and applicant plaintiff (certificate u/s 63 of Bharatiya Sakshya Adhiniyam, 2023 annexed) doesn't sufficiently prove anticipated alienation by respondents/defendants. Moreso, there is lapse of more than five months from the date when the said transcript was recorded that, as alleged by applicant plaintiff, reveals imminent alienation of the aforementioned properties. No proof of alienation made so far brought to knowledge of court, Photographs placed on record, per se, don't prove the assertions of the applicant-plaintiff qua alienation. Furthermore, any alienation, if made, during the



pendency of Lis is eventually hit by section 52 of Transfer of property Act, 1882. Interalia, it is recently instituted suit and there is pendency of old cases; former ought not to be taken on priority basis ignoring latter, especially when no urgency is established. In light of the aforesaid discussion, the request to advance a scheduled court date is hereby declined. Hence, the application stands dismissed. Now file be put up on date already fixed i.e. 01.05.2026 for the purpose already fixed. Papers be tagged with the main file ."

9. I am in agreement with the above said observations of the learned trial Court that the petitioner has failed to establish that any urgency is made out for pre-poning the matter.

10. The aforesaid judgments in **Balinder Kaur (supra)** and **Bhupinderjit Kaur (supra)** relied upon by the learned counsel for the petitioner are distinguishable on facts and law.

11. In view of the above, present petition stands **dismissed**.

12. Pending application(s) if any also stand(s) disposed of.

09.03.2026

Sunena

(Nidhi Gupta)
Judge

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