

109

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CR-3673-2026****Date of Decision: 01.05.2026****BALKAR SINGH****...Petitioner****Vs.****GURNAM SINGH AND OTHERS****...Respondents****CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Mr. Sahil Soi, Advocate for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The present petition has been filed assailing the order dated 12.09.2025 passed by the learned Additional District Judge, Jalandhar, whereby the appeal preferred against the order dated 15.11.2022 passed by the learned Civil Judge, Nakodar, has been dismissed. The said order of the learned Civil Judge had dismissed the application filed by the petitioner under Order XXXIX Rule 2-A of the Code of Civil Procedure, 1908.

2. Briefly stated, the petitioner instituted a civil suit for permanent injunction at Nakodar against respondent No. 1, Gurnam Singh, seeking restraint against him from raising construction and encroaching upon the common street. Along with the suit, an application for grant of interim relief was filed. On 02.09.2016, upon consideration of the said application, the learned Trial Court directed the parties to maintain status quo with regard to construction/encroachment over the street marked "ABCD" in the site plan dated 02.09.2016, till 09.09.2016. It is the case of the petitioner that a copy of the said order was dispatched to respondent No. 1 through registered post on 03.09.2016, and the postal receipt was placed on record. It is further pleaded that the said order was also personally communicated to respondent Nos. 2

and 3 at the spot on 03.09.2016 itself. Despite having knowledge of the restraint order, respondent No. 1 is alleged to have deliberately and willfully continued the construction activity at the disputed site and completed the lintel on the same day, i.e. 03.09.2016. It is further submitted that photographs taken on 03.09.2016 at about 3:25 p.m. and 3:27 p.m. clearly depict construction work being actively carried out at the spot, in violation of the status quo order. The matter was also reported to the police authorities. In these circumstances, the petitioner moved an application under Order XXXIX Rule 2-A of the Code of Civil Procedure, 1908, seeking initiation of proceedings for willful disobedience of the order dated 02.09.2016. The respondents appeared and contested the said application. However, after considering the evidence on record, the learned Trial Court dismissed the application. The appeal preferred by the petitioner against the said order was also dismissed by the learned Additional District Judge, Jalandhar, vide the impugned order. Aggrieved by the concurrent findings recorded by the courts below, the present revision petition has been filed.

3. Learned counsel for the petitioner contends that respondent No. 1, while appearing as a witness, has categorically admitted in his cross-examination that summons were served upon him on 03.09.2016. He has further not disputed the correctness of photographs Ex. A-2 and Ex. A-3. Despite this clear admission, the Courts below have discarded the cogent and convincing evidence demonstrating wilful disobedience of the *status quo* order on the basis of surmises and conjectures. It is further contended that the learned Courts below have erred in holding that non-examination of the process server was fatal to the case of the petitioner. According to learned

counsel, the Courts below have also erroneously recorded findings with regard to non-compliance of Order XXXIX Rule 3 CPC, although no such specific issue was framed for adjudication. It is also submitted that the photographs Ex. A-2 and Ex. A-3 have been wrongly discarded on the ground that the owner of the mobile phone, on which the photographs were taken, was not examined. This reasoning, according to the petitioner, is untenable, particularly when respondent No. 1 himself has admitted the correctness of the said photographs. The Courts below have further failed to appreciate that the time stamps appearing on the photographs cannot be brushed aside on mere assumptions that mobile settings are capable of manipulation, without any material to that effect.

4. Learned counsel further submits that both the Courts below have wrongly concluded that there was no reliable evidence to establish that respondent No. 1 had knowledge of the status quo order prior to continuing construction. It is argued that once service and knowledge stand established, continuation of construction despite the restraint order clearly amounts to wilful disobedience warranting action under Order XXXIX Rule 2-A CPC.

5. Learned Trial Court as well as the learned First Appellate Court have correctly appreciated the pleadings and evidence on record. It has been noted that the status quo order was passed in the absence of the respondents, and that respondent Nos. 2 and 3 were not parties to the suit, hence no restraint order operated against them. It has further been observed that, as per the petitioner's own testimony, he came into possession of the copy of the order only at about 11:00 a.m. on 03.09.2016, whereas the photographs Ex. A-2 and Ex. A-3 depict construction activity at about 3:25 p.m. and 3:27 p.m. on

the same date. However, since the process server was not examined to establish the exact time of service upon respondent No. 1, both Courts have rightly held that it cannot be conclusively inferred that respondent No. 1 had knowledge of the order prior to the alleged construction activity. It has further been held that in the absence of examination of the process server, and in view of the possibility of manipulation of time stamps in digital photographs, the authenticity and timing of the alleged violation could not be conclusively proved. Moreover, the status quo order did not impose an absolute restraint on construction in all circumstances, but was limited to maintenance of status quo regarding the disputed street, and therefore strict proof of knowledge and wilful disobedience was required.

6. In view of the above findings, both the Courts below have concurrently concluded that the petitioner failed to establish wilful disobedience of the status quo order by respondent No. 1 beyond reasonable doubt, and accordingly dismissed the application under Order XXXIX Rule 2-A CPC as well as the appeal arising therefrom. The appreciation of evidence, including the non-examination of the process server, the evidentiary value of the photographs Ex. A-2 and Ex. A-3, and the requirement of strict proof in proceedings under Order XXXIX Rule 2-A CPC, cannot be said to suffer from any perversity or misreading of record.

7. In view of the discussion hereinabove, and finding no merit in the present revision petition, the same is hereby dismissed.

01.05.2026

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

(VIRINDER AGGARWAL)
JUDGE