



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

CR-5719-2024 (O&M)
Date of Decision: 24.04.2025

M/S Crystal Textile Processors

....Petitioner

Versus

Raghvendra Partap Singh and Another

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Adarsh Jain, Advocate
for the petitioner.

Mr. Pardeep Goyal, Advocate
for the caveator-respondents.

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VIKRAM AGGARWAL, J (ORAL)

CM-20607-CII-2024

This is an application preferred by the caveator/respondent under Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC') for placing on record the Rent Agreements dated 01.07.2020 as Annexures A-1 and A-2.

It has been averred in the application that the said rent agreements are already a part of the record of the trial Court, and, therefore, no prejudice would be caused to the petitioners if the same are taken on record.

Learned counsel for the non-applicant/petitioner has opposed the prayer made in the application stating that the petitioner does not admit the execution of the rent agreements sought to be placed on record.

I have considered the issue.

For the reasons mentioned in the application, the same is allowed.
The rent agreements (Annexures A-1 and A-2) are taken on record for the purpose

of decision of the revision petition subject to all just exceptions. The Registry is directed to tag the same at an appropriate place in the case file.

CR-5719-2024

The present revision petition is directed against the order dated 30.07.2024 passed by the Court of learned District Judge, Faridabad dismissing the appeal against the order dated 08.08.2023 passed by the Court of learned Civil Judge (Junior Division), Faridabad vide which the application filed by the petitioner under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short 'CPC') for the grant of *ad interim* injunction was dismissed.

2. The facts, as emanating from the revision petition, are that the petitioner/plaintiff instituted a suit for mandatory injunction to the effect that the respondents-defendants be directed not to create any hindrance/obstacle or difficulties in the process of uninstalling and lifting of 11 machines along with their equipments in terms of the agreement and its Annexures executed on 29/30.06.2020 and the agreements/affidavits 05/06.07.2023. Damages for physical, mental and monetary loss were also claimed along with ₹51,000/- as litigation expenses.

3. The case set up by the petitioner/plaintiff which claimed to be a partnership firm engaged in the business of dyeing of export fabrics since 2017 was that previously Sanjay Kalra, partner of the plaintiff-firm and defendant no.1 were business partners in the firm. On 29.06.2020, defendant no.1 withdrew from the partnership and took retirement vide agreement dated 29.06.2020. However, using his influence, defendant no.1 forcefully claimed 70% machines of the firm and as a result thereof, the machines were divided between the parties as per which 11 machines went to the plaintiff and 20 to defendant no.1. The plaintiff became the sole proprietor of the firm. The plaintiff claimed to have also paid ₹21,00,000/- to defendant no.1. It was further claimed that 20 machines which had

gone to the defendant were also taken on rent by the plaintiff as a result of which the rent of the premises was increased from ₹1,20,000/- per month to ₹1,65,000/- per month.

4. It was averred that the last lease agreements were executed on 01.07.2020 with defendant no.1 as regards Plot No. 112, Sector 58, Faridabad and with defendant no.2 as regards Plot No. 111, Sector 58, Faridabad. The lease came to an end on 01.07.2023 as a result of which the plaintiff informed the defendants in advance in March 2023 that the premises would be vacated. However, defendants started creating a ruckus and started restraining the labourers from entering the premises. Even a police complaint was lodged by the plaintiffs against the defendants on 22.06.2023 at Police Station Sector 58, Faridabad. With the intervention of the police, a mutual settlement dated 05.07.2023 was arrived at in furtherance whereof, affidavits dated 06.07.2023 were furnished. As per the said settlement 11 machines were to be uninstalled and lifted within 15/20 days by the plaintiff and that there were outstanding dues towards the plaintiff. Despite the said settlement having been arrived at, the same was not honoured by the defendant, as a result of which the suit was filed.

5. The suit was accompanied by an application under Order 39 Rules 1 and 2 read with Section 151 CPC for the grant of *ad interim* injunction. The suit was opposed by the defendants. In the written statement, certain preliminary objections as regards maintainability, *locus standi*, cause of action, the suit being false and frivolous, limitation, estoppel, the suit not having been properly valued for the purpose of the Court fee, the plaintiff having not approached the Court with clean hands were raised. On merits, the factum of the parties being partners and thereafter defendant no.1 having retired was admitted. The payment of ₹21,00,000/- by the plaintiff was denied.. It was also denied that 20 machines of the defendant had been taken on rent by the plaintiff. It was averred that all the

machines belonged to the defendants. It was alleged that the plaintiff had not complied with the terms and conditions of the partnership deed as a result of which the alleged Annexure P-1 could not be enforced. It was averred that Annexure P-1 was not a legal and valid document. It was further averred that defendant no.1 had spent a huge amount to purchase the machines and it had been agreed that only if the plaintiff would have returned the amount, the machines would be divided in terms of Annexures A-1 and A-2. However, the payment was not made.

6. It was also averred that upon defendant no.1 having retired from the partnership, the premises of the defendants had been taken on rent by Sh. Sanjay Kalra and his wife Smt. Pooja Kalra w.e.f., 30.06.2020 and two rent agreements were executed. It was also averred that the premises had already been vacated by the plaintiff on 30.06.2023 without paying the requisite electricity and water bills etc. Reply to the application for the grant of *ad interim* injunction was also filed.

7. The trial Court rejected the application for grant of *ad interim* injunction. The appeal filed against the same was also dismissed leading to the filing of the present revision petition.

8. I have heard learned counsel for the petitioner.

9. It has been strenuously urged by Mr. Adarsh Jain, learned counsel representing the petitioner that both Courts have gravely erred in dismissing the application for grant of *ad interim* injunction. Learned counsel referred to the documents available on the case file and has submitted that the documents indicate that 11 machines had to be taken by the plaintiff and 20 machines by the defendant. Learned counsel has referred to the impugned orders and has submitted that though the premises has been vacated, the machines have to be lifted by the petitioner and the apprehension is that by the time the suit is decided, the machines will be rendered useless. Learned counsel submits that it is, therefore,

essential to get the machines uninstalled so that they can be packed and can be preserved in the premises itself till the decision of the suit.

10. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit.

11. For the grant of *ad interim* injunction, it was required to be proved that the petitioner had a *prima facie* case in its favour, that the balance of convenience was also in its favour and that in case of non grant of injunction, an irreparable loss would be suffered by the petitioner. In the considered opinion of this Court, the petitioner failed to even prove a *prima facie* case in its favour, and, therefore, the injunction was rightly refused.

12. As has been noticed in the preceding paragraphs, the suit filed by the petitioner is for mandatory injunction.

“PRAYER:-

In view of above facts and circumstances, the Hon’ble Court may kindly be pleased to;-

- a) *pass a decree of mandatory injunction in favour of the plaintiff as against defendants whereby directing the defendants not to create any hindrance, obstacles or difficulties while the process of uninstalling and lifting the 11 machines and its instrumental equipment / apparatus, as per the agreement & its annexure dated 29/30.06.2020 and agreements /affidavits dated 5/6.07.2023, from the rental premises;*
- b) *award damages caused by defendants towards the physical, mental and monetary loss as may be appropriate in the given facts and circumstances.*
- c) *award an amount of Rs. 51,000/- towards the litigation charges”*

13. The *ad interim* injunction sought was to restrain the defendants from entering the premises or tampering with or damaging the machines during the pendency of the matter. During the course of arguments, it has been stated that the

machines be uninstalled, packed and preserved. When the petitioner has not been able to even prove a *prima facie* case in his favour, the question of grant of ad interim injunction does not arise. There are various documents produced by both sides. Except for the fact that a partnership existed from which the defendant No.1 had retired, the parties are at variance on almost all issues. Execution of documents has been claimed by one side and denied by the other. Admittedly, the premises have been vacated by the petitioner. In the considered opinion of this Court, it is only after evidence that the truth will come out. Even the documents produced before the Courts below were not originals and were copies as a result of which the learned trial Court observed that the original documents had not been produced especially the agreement dated 29/30.06.2020 and affidavits dated 05/06.07.2023. The First Appellate Court also recorded the following findings:-

“16. The conceded facts indicate that plaintiff is not owner of the premises and had taken the same on rent from defendants. The business was already continuing in the demised premises and the lease agreements were entered into between the parties alongwith the machines. The rent agreements placed on lower Court file are Mark-A and Mark-B. Annexures 1 & II are appended with the rent agreements. As per Annexure-I, there are 11 machines and as per Annexure-II, there are 20 machines or instrumental equipments which are mentioned in the settlement/agreement between the parties. The demised premises belong to defendants and the lease agreements have admittedly already expired. At present, the possession is with the defendants. The argument that the plaintiff cannot be forcibly evicted from the rented premises, would not be tenable in the given facts of the present case as no such amendment has been made in the original suit by the plaintiff to seek restoration of the possession. Plaintiff did not amend its pleading nor filed any separate suit for restoration of the possession of the demised premises, after it was allegedly forcibly evicted from the demised premises. The main dispute between the parties at this stage is regarding 11 machines. The plaintiff claims these

machines, particularly in view of the settlement arrived into between the parties in police station, whereas the defendant denies the ownership of the same with the plaintiff. Since, the question of ownership of the 11 machines claimed by plaintiff is disputed by the defendants, and invoices/bills are of the period when there was partnership of the defendant No. 1 with the present partners of the plaintiff firm, it would be determined after evidences led by both the parties as to who is owner of the 11 machines. The plaintiff intends that injunction be granted to the plaintiff to have unhindered access for uninstalling and removing those machines. The grant of relief of mandatory injunction requires more evidence than mere seeking relief of permanent injunction as mandatory injunction normally involves some more physical positive act to be performed which may not be the requirement in case of grant of relief of permanent injunction. Moreover, in case the interim relief of uninstalling - machineries is granted to the plaintiff, it would amount to granting of main relief sought by the plaintiff in the suit. The plaintiff can be compensated and would be entitled to claim all consequential damages including illegal use of its machines in case ultimately it succeeds in proving its case on merits. So far as bills/invoices of the machines, the terms and conditions of mutual settlement between the parties, are concerned, it would be again a question of evidence to be determined at the time of final decision of the suit. Hence, plaintiff failed to establish a prima-facie case in its favour so as to grant the relief sought for. Balance of convenience also does not lies in favour of plaintiff and it would not suffer any irreparable loss as any loss to the plaintiff can be compensated by way of damages for use and the occupation of the said 11 machines etc. and for mental harassment. The order passed by learned trial Court is thus based on sound judicial considerations and no illegality or infirmity has been committed by learned trial Court while dismissing the injunction application of the plaintiff. The impugned order thus does not call for any interference.”

14. I do not find any illegality in the aforesaid findings keeping in view the discussion in the preceding paragraphs. Both Courts rightly found that the

petitioner had not been able to make out a *prima facie* case in its favour nor was it successful in proving that the balance of convenience was in its favour or that it would suffer an irreparable loss and substantial injury, in case the injunction was not granted. It was also rightly observed by the First Appellate Court that in case the interim relief of uninstalling the machineries was granted to the petitioner, it would amount to granting the main relief prayed for in the suit.

In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

24.04.2025

Rekha

Whether speaking/reasoned :

Yes/No.

Whether reportable :

Yes/No.