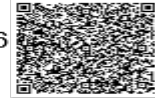


**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****127****CR-2919-2025 (O&M)****Date of decision: 14.05.2025****Jai Chand****...Petitioner(s)****Vs.****Minakshi Walia****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

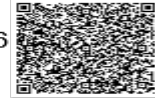
Present:- Mr. Abhinav Aggarwal, Advocate for the petitioner.

NIDHI GUPTA, J.

The present civil revision petition has been filed by the plaintiff under Article 227 of The Constitution of India read with Section 151 of C.P.C. praying for setting aside the impugned order dated 17.04.2025 (Annexure P-10) passed by the Ld. Additional District Judge, Panipat in Case No. Civil Misc. Appeal No. 13-2015 titled as "Minakshi Walia Vs. Jai Chand", vide which Ld. Additional District Judge, Panipat without commenting upon the merits, has remanded back the matter with the direction to the Ld. Civil Judge (Senior Division), Panipat to decide the petitioner's application dated 29.01.2024 (Annexure P-2) within 15 days from the date next fixed i.e. 06.05.2025 before the Ld. Trial court, by partially modifying and by setting aside interim order dated 22.01.2025 (Annexure P-8) qua to the interim part vide which respondent/defendant was restrained from raising construction over the suit property in question.



2. Learned counsel for the petitioner very vehemently submits that the learned lower appellate Court was in a patent error in remanding the matter back to the learned trial Court for deciding the application of the petitioner under Order 39 Rule 1 and 2 CPC, as it failed to appreciate that ad interim injunction had already been granted to the petitioner by the learned trial Court vide order dated 22.01.2025 (Annexure P-8). Learned counsel submits that in vacating the interim injunction granted in favour of the petitioner, great injustice and harm is liable to be caused to the petitioner. It is submitted that learned lower appellate Court while passing the impugned order dated 17.04.2025 (Annexure P-10) has failed to give any reasonable justification in setting aside the interim order dated 22.01.2025. As such, learned lower appellate Court has failed to apply legal principles for modifying interim injunction. Interim injunction has been unjustifiably altered/vacated with regard to restraint on construction on suit property by ignoring the facts and circumstances. Learned appellate Court, Panipat while passing impugned order dated 17.04.2025 (Annexure P-10), has failed to consider that by permitting the construction, the nature of the property in question will be changed as the petitioner/plaintiff has a strong case for trial. It is submitted that irreparable or serious injury will be cost to the petitioner which normally cannot be compensated in terms of money. The balance of convenience is in favour of the petitioner. The Impugned order dated 17.04.2025 (Annexure P-10), is patently non-speaking, cryptic, illegal, ultra-vires, void and without jurisdiction and is liable to be set-aside.



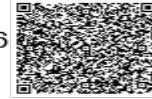
3. In support, learned counsel for the petitioner relies upon judgment passed by the Hon'ble Supreme Court in "***Kushuma Devi vs. Sheopati Devi (D) and others***", ***Law Finder Doc Id # 1419347***; wherein it is held that every judicial or quasi judicial order passed by the Court, Tribunal or Authority which decides lis between the parties, must be supported with the reasons in support of its conclusion.

4. It is accordingly prayed that the present revision petition be allowed; and the impugned order dated 17.04.2025 (Annexure P-10) be set aside.

5. No other argument is raised on behalf of the petitioner.

6. I have heard learned counsel for the petitioner and perused the case file in great detail. I find no merit in the submissions made on behalf of the petitioner.

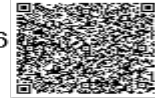
7. Brief facts of the case are that the petitioner had filed suit on dated 29.1.2024 (Annexure P-1), for possession of the suit property by way of specific performance of agreement to sell dated 4.7.2023, along with prayer for permanent injunction "*restraining the respondent from alienating, mortgaging, gift, or transferring its title/possession in any other manner or creating any charge thereon upon the suit property.*" The suit of the petitioner was accompanied with an application dated 29.1.2024 (Annexure P-2), under Order 39, Rule 1 and 2 CPC. Vide order dated 23.02.2024 (Annexure P-5), the learned trial Court had proceeded ex parte against the respondent. The respondent filed application dated Nil (Annexure P-6) under Order 9 Rule Rule 13 CPC for setting aside ex parte



order dated 23.02.2024. Reply dated nil (Annexure P-7) was filed by the petitioner to the above said application of the respondent.

8. Vide order dated 22.01.2025 (Annexure P-8), the learned trial Court had: (a) set aside the ex parte order dated 23.02.2024 (Annexure P-5); and (b) further directed that *“the defendants are restrained from alienating and raising construction over the suit property.”* The respondent filed an appeal (Annexure P-9) against the second part of the ad interim order dated 22.01.2025 before the learned District Judge, Panipat. In the meantime, respondent also filed written statement dated 27.02.2025 (Annexure P-3) to the suit of the petitioner; and also filed reply dated 27.02.2025 (Annexure P-4) to the application of the petitioner under Order 39 Rule 1 and 2 CPC. Thereafter vide impugned order dated 17.04.2025 (Annexure P-10), the learned Additional District Judge, Panipat has disposed of the appeal of the respondent by partially modifying order dated 22.01.2025 to the extent that interim injunction granted by the learned trial Court vide order dated 22.01.2025 restraining the respondent from raising construction, is set aside.

9. I find no error in the said modification vide impugned order dated 17.04.2025 (Annexure P-10), as it is not denied by learned counsel for the petitioner that there is no prayer made by the petitioner either in the suit or in the application filed by him under Order 39 Rule 1 and 2 CPC seeking injunction for restraining the respondent from raising construction. Admittedly, main application under Order 39 Rule 1 and 2 CPC is still pending adjudication. As such, appeal of the respondent was disposed of by



the learned lower appellate Court with the direction to the learned trial Court to decide the main injunction application within a period of 15 days from the next date fixed (06.05.2025). Further injunction qua restraining alienation of suit property by the respondent was allowed to continue and only direction to restrain construction on suit property was set aside. Hence, keeping in view that no such prayer has been made by the petitioner, I find no error in the impugned order dated 17.04.2025 (Annexure P-10), which is just and fair.

10. The reliance of the petitioner upon the judgment passed in ***Kushuma Devi's case (supra)*** is misplaced as by no stretch of imagination, it can be stated that the impugned order dated 17.04.2025 (Annexure P-10) is not supported with reason. The learned lower appellate Court has given cogent reasons for setting aside interim injunction qua construction on the ground that admittedly, no such prayer has been made by the petitioner. It is established position in law that relief beyond what is sought by the party, cannot be granted.

11. In view of the above, the present civil revision petition is hereby **dismissed**.

12. Pending application, if any, stands disposed of.

14.05.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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