



CR-2147-2025 (O & M)

-1-

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

109.

**CR-2147-2025 (O & M)
Date of decision:05.04.2025**

DINESH KUMAR AND OTHERS

...PETITIONERS

VS.

AARTI

...RESPONDENT

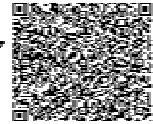
CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Ms. Aanchal Thakur, Advocate
for the petitioners.

SUVIR SEHGAL, J.

1. Aggrieved of order dated 17.01.2025, Annexure P-10, whereby an application filed by the petitioners/defendants under Order 7 Rule 11 CPC for rejection of the suit has been dismissed, petitioners have approached this Court by way of present revision petition.

2. Counsel for the petitioners submits that petitioner No.1 and respondent were married on 29.07.2021 and they do not have any child from the wedlock. Petitioners No.2 to 11 are the relatives of petitioner No.1, who is working as a helper in a canteen and earning a meagre salary. She submits that the respondent is an arrogant lady given to expensive tastes in life and there is a marital discord between her and petitioner No.1. Counsel states that respondent has filed a complaint under the Protection of Women



from Domestic Violence Act, 2005 (for short “the DVAct”) against the petitioners on frivolous grounds at Patiala. A transfer petition filed by the petitioners is pending before this Court, wherein by order dated 27.03.2023, Annexure P-5, this Court has directed the Trial Court to adjourn the proceedings beyond the date fixed in the transfer petition. Counsel asserts that in the meanwhile, respondent filed a suit, Annexure P-7, for permanent injunction on 02.05.2023, on the same allegations as levelled in the complaint filed under the DV Act. Counsel urges that as respondent has an equally efficacious remedy, the suit for permanent injunction is not maintainable and the petitioners filed an application, Annexure P-8, for rejection of the plaint, which has been erroneously declined by the Trial Court. Referring to Section 41 (h) of the Specific Relief Act, 1963 she has urged that the remedy of injunction is barred as the respondent cannot simultaneously avail the remedies of a civil suit as well as a complaint under the DV Act.

3. I have heard counsel for the petitioners and considered her submission besides examining the documents appended with the paper-book.

4. The sole question for consideration is as to whether a suit for specific performance, which is based on the same set of allegations as levelled in a complaint filed under the DV Act, is barred under Section 41(h) of the Specific Relief Act, 1963. The answer to this question can be found in the observations of the Supreme Court in *Satish Chander Ahuja Vs. Sneha Ahuja (2021) 1 SCC 414.*

5. Supreme Court observed that the proceedings under the DV Act are governed by the Code of Criminal Procedure, 1973. On a conjoint



CR-2147-2025 (O & M)

-3-

reading of its various provisions, it can safely be said that proceedings under the DV Act and the proceedings before the civil court, family court or a criminal court, as mentioned in Section 26 of the DV Act are independent proceedings. However, the findings and orders passed by one forum have to be considered by the other forum. Therefore, the pendency of proceedings under the DV Act or any interim or final order passed thereunder regarding the right of residence is not an embargo on initiation of or continuing of any civil proceedings, which relate to the same subject matter. A civil court has to adjudicate the issues raised before it on the basis of the evidence led by the parties. A suit for mandatory permanent injunction filed before the civil court is therefore maintainable and is not liable to be rejected under Order 7 Rule 11(d) CPC. The application moved by the petitioners has been rightly declined by the Trial Court. There is no irregularity or illegality in the impugned order.

6. Petition being bereft of merit, is dismissed, though with no order as to costs.

05.04.2025

*sheetal***(SUVIR SEHGAL)****JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No