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

**CR-4855-2025 (O&M)
Date of Decision: 28.07.2025**

Rakesh Saini

.....Petitioner

Vs.

Tejpal Numberdar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Chanderhas Yadav, Advocate,
for the petitioner.

SUDEEPTI SHARMA J. (ORAL)

1. Challenge in the present petition is for setting aside order dated 04.06.2025 passed by learned Civil Judge (Junior Division), Gurugram, vide which the application under Order 39 Rules 1 & 2 of the Code of Civil Procedure, 1908 (for short, 'CPC') filed by the petitioner/plaintiff was dismissed, as well as order dated 27.06.2025 passed by learned Additional District Judge, Gurugram, whereby, appeal filed against the order dated 04.06.2025 has been dismissed.

2. Learned counsel for the petitioner contends that without calling reply from respondent/defendant No.5, who is necessary party and whose reply is also necessary to be taken on record, impugned order dated 04.06.2025 has been passed by learned Civil Judge (Junior Division), Gurugram, and further the learned Additional District Judge, Gurugram, vide its order dated 27.06.2025 has wrongly dismissed the appeal filed against the



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order dated 04.06.2025 passed by learned Civil Judge (Junior Division), Gurugram.

4. I have heard learned counsel for the petitioner and perused the case file with his able assistance.

5. A perusal of file especially copy of plaint (Annexure P-8) shows that specific allegation made by the petitioner is against respondents/defendants No.1 to 5. Perusal of the impugned orders shows that reply to the injunction application has only been filed by the respondents No.1 to 4 and no reply by respondent No.5 has been filed, whose reply, being the contesting party, is required to be taken on record before passing the impugned orders.

6. In view of the above, the present petition is **allowed** and order dated 27.06.2025 passed by learned Additional District Judge, Gurugram, as well as order dated 04.06.2025 passed by learned Civil Judge (Junior Division), Gurugram, are set aside. The matter is remanded to the learned trial Court to decide the application under Order 39 Rules 1 and 2 CPC afresh by considering the reply to be filed by respondent No.5.

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

(SUDEEPTI SHARMA)
JUDGE

28.07.2025

Virender

Whether speaking/non-speaking : Yes
Whether reportable : Yes/No