

2025:PHHC:086186



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

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COCP-2827-2025 (O&M)
Date of decision: 16.07.2025

Rajinder Thapar

...Petitioner

Versus

Dheeraj Mahajan

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Kanwar Abhay Singh, Advocate for the petitioner.

VIKAS SURI, J. (Oral)

1. Prayer in this petition is for initiating proceedings against the respondent under the Contempt of Courts Act, 1971, for alleged wilful disobedience of the order dated 07.02.2025 (Annexure P-1) passed by the learned Civil Judge (Junior Division), Ludhiana in CS/862/2025 titled as *Rajinder Thapar vs. Dheeraj Mahajan*.

2. Learned counsel for the petitioner submits that the petitioner has instituted a suit for mandatory and permanent injunction with consequential relief of compensation for the damage caused due to illegal construction, which has weakened the plaintiff's building structure. In the said civil suit, vide order dated 07.02.2025, relevant portion of which is extracted hereunder, the respondent was restrained from raising further construction on the suit property till the next date of hearing, i.e. 13.02.2025.

“Accordingly, the defendant is restrained from raising further construction on the suit property till the



next date of hearing, i.e., 13th February 2025, subject to compliance with Order 39, Rule 3 CPC.”

4. The aforesaid interim stay was continued vide order dated 30.02.2025. It is pertinent to mention that the respondent, who was the defendant in the suit, on being served, put in appearance through counsel on 13.02.2025 and was thus aware of the stay order granted by the Court. Learned counsel for the petitioner further submits that in gross violation and wilful disobedience of the stay orders dated 07.02.2025 and 13.02.2025, the defendant continues to raise construction over the suit property.

5. Aggrieved by the defiant action of the respondent, the petitioner moved an application under Order 39 Rule 2-A CPC for proceeding against the respondent/defendant for wilful disobedience and breach of the supra injunction orders issued by the civil Court. The said application was instituted on 17.02.2025. Upon notice being issued in the said application, the respondent put in appearance through counsel on 19.03.2025 and the said proceedings were pending for filing reply and vide order dated 04.07.2025, were deferred to 02.08.2025. On the said date itself, the petitioner suffered a statement to the effect that a contempt petition on the same cause of action had been filed before this Court, being COCP-2827-2025 and in view of the same, he does not wish to pursue the contempt petition under Order 39 Rule 2-A CPC. Accordingly, in view of the statement suffered by the petitioner, the said contempt petition was ordered to be dismissed as withdrawn vide order dated



04.07.2025.

6. It is not disputed that the proper remedy alleging violation of an injunction order passed by the civil Court, on an application under Order 39 Rules 1 and 2 CPC, was to initiate appropriate proceedings under the provisions of Order 39 Rule 2-A CPC. It is not disputed that the said recourse was taken. However, during the pendency of the said proceedings, the petitioner chose to simultaneously file the present petition before this Court. When the matter came up for preliminary hearing on 29.05.2025, the following order was passed:-

“During the course of preliminary hearing, learned counsel for the petitioner has submitted that the petitioner is already availing the remedy under Order 39 Rule 2-A CPC but the respondent-contemner is not filing reply thereto. Hence, the petitioner has approached this Court.

Learned counsel for the petitioner to first assist the Court whether two remedies can be availed simultaneously.

At his request, list on 16.07.2025.”

7. Today, on resumed hearing, learned counsel for the petitioner has produced in Court copy of order dated 04.07.2025, whereby the contempt petition filed under Order 39 Rule 2-A CPC stands withdrawn. The operative part of the said order reads as thus:-

“At this stage, file taken up again as petitioner has come present and suffered statement to the effect that the petitioner humbly submits that a related contempt petition on the same cause of action is now pending adjudication before Hon’ble Punjab and Haryana High



Court bearing no. COCP-2827-2025 titled as Rajinder Thapar vs. Dheeraj Mahajan, which is fixed for 16.07.2025. In view of the above, he does not wish to pursue the present contempt petition before this Hon'ble Court at this stage. Therefore the present contempt petition may kindly be permitted to be withdrawn at this stage.

In view of the statement suffered by petitioner, present petition stands dismissed as withdrawn. File be consigned to record room.”

8. In the aforesaid circumstances, the petitioner having already availed remedy by initiating contempt proceedings under Order 39 Rule 2-A CPC, before the civil Court, it was not open to him to simultaneously move this Court under the Contempt of Courts Act, 1971. However, by withdrawing the proceedings under Order 39 Rule 2-A CPC, vide order dated 04.07.2025, the instant petition would not become *ipso facto* maintainable.

9. In view of the above discussion, the present petition is dismissed. However, the petitioner would be at liberty to seek revival of his proceedings under Order 39 Rule 2-A CPC, if so advised.

July 16, 2025
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(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes / No

Whether Reportable : Yes / No