



CR-4410-2025

-1-

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

(123)

CR-4410-2025

Date of Decision: - 17.07.2025

M/s NSM Realtech and Developers LLP

....Petitioner

Versus

Akta and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Gursimran Singh Madaan, Advocate, for the petitioner.

VIKAS BAHL, J. (ORAL)

1. Present civil revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 12.08.2024 (Annexure P-5) passed by the Civil Judge (Junior Division), Palwal, whereby the petitioner has been restrained from raising construction over the suit property.

2. Learned counsel for the petitioner has submitted that in the present case, respondent No.1/plaintiff, who is daughter of Jaipal, had filed a suit against defendant no.1/respondent No.2-Rohit, who is her brother and also against the present petitioner who is defendant No.2. It is further submitted that the said suit is for permanent injunction. It is argued that the petitioner had purchased the share of Rohit/defendant No.1, brother of the plaintiff, vide a registered sale deed dated 09.05.2024



CR-4410-2025

-2-

(Annexure P-4) and the plaintiff was witness no.3 to the said sale deed. It is further argued that along with the suit, an application under Order 39 Rules 1 and 2 CPC was filed by respondent No.1/plaintiff and in the said case, on 12.08.2024 ad-interim injunction was granted by the trial Court restraining defendant No.2 from raising any further construction till the next date of hearing. It is submitted that on 25.11.2024, the present petitioner had filed reply to the injunction application as well as the written statement but defendant No.1, who is the brother of the plaintiff, had purposely not filed the written statement and even on the subsequent dates i.e. 30.01.2025, 21.03.2025 and 23.05.2025, the said defendant No.1 had neither filed the written statement nor the reply to the application under Order 39 Rules 1 and 2 CPC. The said zimni orders, which have been highlighted by the learned counsel for the petitioner, are reproduced herein below: -

*“Present: Sh. Bhagat Singh Dagar, Ld. Counsel for the plaintiff.
Sh. Surender Rana, Ld. Counsel for defendant no.1.
Sh. B.C. Sagar, Ld. Counsel for the defendant no. 2.*

Today the case was fixed for filing written statement and reply to injunction application on behalf of defendants.

Written statement and reply to injunction application on behalf of defendant no.2 filed. Copy supplied. Now, to come up on 30.01.2025 for filing written statement and reply to injunction application on behalf of defendant no.1. Interim order is extended till then.

Date of Order: 25.11.2024

Present: Sh. Bhagat Singh Dagar, Ld. Counsel for the plaintiff.



CR-4410-2025

-3-

*Sh. Surender Rana, Ld. Counsel for defendant no.1.
Sh. B.C. Sagar, Ld. Counsel for the defendant no. 2.*

Today the case was fixed for filing written statement and reply to injunction application on behalf of defendants.

Written statement and reply to injunction application on behalf of defendant no.1 not filed. Adjournment sought. Heard and allowed. Now, to come up on 21.03.2025 for filing written statement and reply to injunction application on behalf of defendant no.1. Interim order is extended till then.

Date of Order: 30.01.2025

*Present: Sh. Bhagat Singh Dagar, Ld. Counsel for the plaintiff.
Sh. Pratap Singh, Ld. Counsel for defendant no.1.
Sh. B.C. Sagar, Ld. Counsel for the defendant no. 2.*

Today the case was fixed for filing written statement and reply to injunction application on behalf of defendant no.1.

Fresh power of attorney on behalf of defendant no. 1 filed. Same is taken on record.

Written statement and reply to injunction application on behalf of defendant no.1 not filed. Adjournment sought. Heard and allowed. Now, to come up on 23.05.2025 for filing written statement and reply to injunction application on behalf of defendant no.1. Interim order is extended till then.

Date of Order: 21.03.2025

*Present: Sh. Bhagat Singh Dagar Advocate for the plaintiff.
Sh. Pratap Singh, Advocate for the defendant No. 1.
Sh. B.C. Sagar, Advocate for the defendant No. 2.*

Case received by way of transfer. It be checked and registered.

Written statement and reply to application under Order 39 Rules 1 & 2 of CPC on behalf of defendant No. 1 not filed. Adjournment sought. Heard & Allowed.



CR-4410-2025

-4-

*Now, to come up on 07.11.2025 for filing of written statement and reply to application under Order 39 Rules 1 & 2 of CPC.
Interim Order dated 12.08.2024 is extended till then.*

Date of Order: 23.05.2025”

3. Learned counsel for the petitioner has submitted that purposely defendant No.1 is not filing the written statement and the interim order is being continued and the trial Court is unable to decide the application under Order 39 Rules 1 and 2 CPC on account of non-filing of written statement by defendant No.1. A limited prayer has been made by learned counsel for the petitioner to the effect that the trial Court be directed to decide the application under Order 39 Rules 1 and 2 CPC after granting one last and short date to defendant No.1 to file the written statement.

4. A perusal of the zimni orders which have been reproduced herein above and also other zimni orders would show that defendant No.1, who is the brother of the plaintiff, has not filed reply to the application under Order 39 Rules 1 and 2 CPC in spite of several opportunities having been granted and the case has been adjourned to 07.11.2025 for filing written statement and reply to application under Order 39 Rules 1 and 2 CPC by defendant No.1.

5. Keeping in view the above-said facts and circumstances, the present revision petition is disposed of with the following directions: -

- (i) In case written statement/reply to the application under Order 39 Rules 1 and 2 CPC is not filed by defendant No.1 on 07.11.2025, then only one last opportunity of seven days be



CR-4410-2025

-5-

granted to defendant No.1 on 07.11.2025 to file written statement and reply to the application under Order 39 Rules 1 and 2 CPC.

- (ii) In case the reply and written statement is not filed by defendant No.1 even thereafter, then, no further opportunity would be granted to defendant No.1 for the same and necessary order regarding the same be passed.
- (iii) The trial Court would make every endeavour to decide the application under Order 39 Rules 1 and 2 CPC, as expeditiously as possible, preferably, within a period of six weeks from 07.11.2025.

6. It is made clear that this Court has not opined on the merits of the application under Order 39 Rules 1 and 2 CPC and the same would be decided by the trial Court independently, after taking into consideration the pleadings as well as the arguments raised on behalf of both sides.

7. It would be relevant to mention that notice of motion has not been issued to the respondents as issuance of any notice would further delay the proceedings in the suit and would also entail expenses for respondents in order to defend the present petition. However, it would be open to the respondents to move an application for recalling the present order in case, any statement made before this Court is found to be false/incorrect.

July 17, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No