



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

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116

CR-4132-2025 (O&amp;M)

Date of Decision :15.07.2025

DALIP CHAND AND ANOTHER

. . . . Petitioners

Vs.

BABLI @ BUBLI AND OTHERS

. . . . Respondents

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Present: - Mr. V.K. Sandhir, Advocate, for the petitioners.

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**DEEPAK GUPTA, J.**

Petitioners herein are two of the defendants in Civil Suit bearing CIS No.CS-4895-2024 titled *Babli @ Bubli and another Vs. Dalip Chand and others*, pending before the Court of learned Civil Judge (Jr. Division), Amritsar. They are aggrieved by the order dated 19.02.2025, whereby their application under Order XXXIX Rule 3 read with Section 151 CPC for vacation of the *ex-parte* stay order granted on 05.10.2024, has been dismissed.

2. It is contended by learned counsel that respondents No.1 and 2 herein had filed a suit for permanent injunction qua a residential house and also sought to restrain the petitioners herein from alienating the suit property in any manner. The trial Court by way of the order dated 05.10.2024 (*Annexure P2*) granted *ex parte* stay by directing the parties to maintain status quo qua the entire property, subject to compliance of Order XXXIX Rule 3 CPC.

3. Learned counsel submits that respondents-plaintiffs were required to send copy of the plaint, besides the copy of affidavit and the documents relied in support of the application, but they did not send the petitioners either the copy of the affidavit or the documents relied upon in the plaint and so, the petitioners-defendants moved application under

Order XXXIX Rule 3 CPC for vacation of the stay order, but the same has been declined.

4. It is noticed by the trial Court in the impugned order that defendants had put in appearance before the trial Court on the very next date of hearing and moved the application for vacation of the stay, indicating that they had received the notice of suit. It is further noticed that documents on which the plaintiffs had relied were also provided to the defendants and as such, they had become aware of the proceedings. Trial Court also observed that procedural law is the handmaid of justice, intended to advance the cause of justice, which cannot be declined by applying hyper technical approach. Learned trial Court also referred to ***Nat Organic Chemical Industries Vs. B.L. Industries, 34 (1998) DLT 232***, wherein it was held that it is not in all the cases of non-compliance of Order XXXIX Rule 3 CPC that an *ex parte* order should be vacated and that defendants must show that it caused a serious prejudice to him.

5. In the present case, the petitioners failed to show any serious prejudice to them for non-compliance of the provisions of Order XXXIX Rule 3 CPC on account of not sending to them the copy of affidavit or the documents relied upon in the plaint.

6. Apart from above, it is informed by learned counsel that next date of hearing before the trial Court for considering the application under Order XXXIX Rules 1 & 2 CPC on merits, is 19.08.2025.

7. Having considered submissions of learned counsel, the present petition is hereby disposed of with the direction to the trial Court to make every possible endeavor to dispose of the application under Order XXXIX Rule 1 & 2 CPC on merits either on 19.08.2025 or if it is not possible on that date, then to dispose of the same within next 15 days positively.

**15.07.2025**

*Vivek*

**(DEEPAK GUPTA)  
JUDGE**

Whether speaking/reasoned : Yes  
Whether reportable : No