

CR-659-2025 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

136

CR-659-2025 (O&M)
Date of decision : 06.02.2025

CHITRA RAKHEJA AND ORS

... PETITIONERS

VERSUS

ANAMIKA KALSI

... RESPONDENT

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Ashish Aggarwal, Senior Advocate with
Mr. Kartik Gupta, Advocate for the petitioner.

Pankaj Jain, J. (Oral)

1. Present revision petition is directed against the order dated 16.01.2025 passed by the learned Additional District Judge, Faridabad whereby in appeal preferred under Order XLIII Rule 1 (r) CPC by the plaintiff against the order dated 22.12.2024 passed by the learned Civil Judge (Junior Division), Faridabad, stands allowed with the following observations:-

“In view, of the submissions/pleadings/grounds of appeal made, on behalf of the parties, this Court was of an opinion that since, the appellant/plaintiff has denied to have ever resigned, herself from the post of Managing Director, at any point of time rather has pleaded that she was removed from the M.Dship of the Company, wrongly, illegally by forgery of her signatures even, while transferring money to the tune of Rs.70 lakh from her account (i.e. of appellant), to own (i.e. of respondent no.1); and, in the written submissions of the Ld. Counsel, representing the respondents, there was no



mention in clear unambiguous terms, the manner in which the accounts of the appellant/plaintiff/real sister of respondent no.1/Managing Director of the respondent no.3-Company, had been settled and, how were the properties purchased/sold, in the name of the respondent no.3-Company, it was essential to order the party/respondents, to preserve the properties in question, till the decision of the Civil Suit by the Ld.Court concerned, on merits. Therefore, the Ld. Civil Court concerned is hereby directed, to expedite decision of the application seeking interim injunction, of the plaintiff pending before it, in accordance with law, within three months from today.”

2. Plaintiff filed suit seeking decree of permanent injunction in the form of restraint against the defendants from alienating, transferring or mortgaging or creating third party interest in the properties as detailed out in the prayer clause. The plaint was accompanied by an application under Order XXXIX Rule 1 and 22 read with Section 151 CPC. Learned Civil Judge (Junior Division), Faridabad vide order dated 22.12.2024 observed as under:-

“This Court deems it pertinent to mention another relevant fact, in arguendo, at this point. The applicant has stated in her plaint that the suit property is joint property which has devolved upon her and defendant number one from their father. The applicant has mentioned in her plaint that her mother has passed away and now she along with defendant number one, is the only legal heir who are entitled to a share in the joint family property. The applicant has prayed for an injunctive relief, however, she has nowhere specified who among the two sisters is the Karta of this joint family, and who can make an alienation of their joint family property, if any, in the capacity of Karta. This observation is being made by this Court, especially because no injunction



can be granted against the Karta of a joint family property and the only remedy against such alienation is to file a suit for getting the alienation set aside.”

3. From the aforesaid observation, it is evident that the final adjudication upon Order XXXIX Rule 1 and 2 CPC is still pending. However, on account of decline of ad interim, plaintiff approached appellate Court which led to the passing of the impugned order.

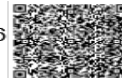
4. Learned Senior counsel for the petitioner submits that the Appellate Court erred in pre-judging the issue at this stage and further directing the Civil Court to grant stay during the pendency of the suit. Even though in the penultimate paragraph, the Appellate Court has held that nothing stated in the order shall be construed as an expression of this Court on the merits, still direction stands issued to the trial Court.

5. I have heard learned Senior counsel for the petitioner and carefully gone through the record of the present case.

6. Learned Senior counsel has rightly contended that the direction ought not to have been issued by the learned Additional District Judge, Faridabad while disposing off the appeal. The decision under Order XXXIX Rule 1 and 2 CPC should have been left to the wisdom of the trial Court.

7. In view of the above, learned Senior counsel was asked to seek instructions with respect to the disposal of the instant revision petition with the direction to the trial Court to decide the application without being prejudiced by any observation/direction made by the Appellate Court within a period of 03 months as held by the learned Additional District Judge, Faridabad.

8. Learned Senior counsel upon instructions submits that the petitioner agrees to such order.

**CR-659-2025 (O&M)**

-4-

9. In view of the above, the present revision petition is disposed off with the direction to the trial Court to decide the application under Order XXXIX Rule 1 and 2 CPC filed by the plaintiffs on merits without being prejudice by any observation/direction passed by the learned Additional District Judge, Faridabad.

(PANKAJ JAIN)
JUDGE

February 06, 2025

A.Kaundal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No