



128

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

CR-2745-2024 (O&M)

Date of Decision : 15.10.2025

Siri 1008 Bhagwan Aadi Nath Digember Jain Mandir Ji ... Petitioner(s)
Navin

Versus

Narender Kumar Jain ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sanjiv Kumar Aggarwal, Advocate and
Mr. Ojas Bansal, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 01.11.2021 (Annexure P-1) passed by the Trial Court whereby the application filed by the plaintiff-petitioner under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 (CPC) was dismissed and the order dated 08.04.2024 (Annexure P-2) passed by the First Appellate Court whereby the appeal filed by the plaintiff-petitioner was dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-petitioner filed a suit for permanent injunction stating therein that the plaintiff-petitioner was a juristic person and a body constituted to look after the affairs of Mandir Ji. It was further averred that the defendant-respondent was a tenant and was occupying the shop in question as a tenant. Photocopies of the rent receipts countersigned by the defendant-respondent were also attached with the plaint. It was further averred that the shop is in a dilapidated condition and

the business is lying closed for the last two years. It was further the case set up that the defendant-respondent was trying to reconstruct the said shop. Written statement (Annexure P-5 with the petition) was filed wherein, in the reply on merits to para 3 of the plaint, it was specifically denied that there was any relationship of landlord and tenant between the plaintiff-petitioner and the defendant-respondent. It was further stated that the alleged rent receipts which were relied upon by the plaintiff-petitioner did not pertain to the shop in question nor the plaintiff-petitioner is the owner of the said shop. Along with the plaint (Annexure P-3 with the petition), an application under Order 39 Rules 1 and 2 of CPC was also filed. The Trial Court vide the order dated 01.11.2021 (Annexure P-1) dismissed the application on the ground that there was no *prima facie* case in favour of the plaintiff-petitioner nor the balance of convenience was in its favour. Aggrieved by the same, an appeal was preferred which was also dismissed by the First Appellate Court vide order dated 08.04.2024 (Annexure P-2). Hence, the present revision petition.

3. Learned counsel for the plaintiff-petitioner would contend that there are rent receipts which have been attached with the plaint as well as with the present petition as Annexures P-9 to P-11 which show that the defendant-respondent is a tenant in the shop in question. It is further the contention of the learned counsel that in the entries of the property tax register (Annexure P-12) and as per the gift deed dated 20.10.1987 (Annexure P-15), the plaintiff-petitioner is the owner of the suit property, hence, both the Courts have erred in dismissing the application for granting ad interim injunction in favour of the plaintiff-petitioner.

4. I have heard the learned counsel for the plaintiff-petitioner.

5. In the present case both the Courts have concurrently found that

there is no *prima facie* case in favour of the plaintiff-petitioner nor the balance of convenience is in its favour. The gift deed dated 20.10.1987 (Annexure P-15) which has been relied upon by the learned counsel for the plaintiff-petitioner to claim ownership of the shop in question reveals that one Rishi Kumar being the attorney holder of Sushil Kumar had executed the gift deed of 20 sq. yds. area to the extent of 1/6th share in the joint land in favour of Siri Digamber Jain Shiksha Parcharni Sabha, Gohana. The present suit has not been filed by the said Shiksha Parcharni Sabha. Rather it has been filed by Siri 1008 Bhagwan Aadi Nath Digamber Jain Mandir Ji Navin, Main Bazar, Gohana. As per the plaint (Annexure P-3), the shop in question bears No.1315, Ward No.12 situated within the area of Nagar Parishad Gohana, Tehsil Gohana, District Sonipat. However, the gift deed does not state any number of the shop.

6. Learned counsel for the plaintiff-petitioner has argued that the rent receipts which have been appended with the plaint as well as with the present petition as Annexures P-9 to P-11 clearly show that the defendant-respondent is a tenant in the suit property. However, a perusal of the rent receipts shows that the rent receipts do not bear the number of the shop and the same have been issued by Mandir Ji Navin, Gohana, Rohtak and not by the plaintiff-petitioner which is Siri 1008 Bhagwan Aadi Nath Digamber Jain Mandir Ji Navin, Main Bazar, Gohana. In the written statement, the stand taken by the defendant-respondent is that he is co-owner of the suit property. In the absence of any document to *prima facie* show that the defendant-respondent is the tenant in the suit property and in the absence of any rent note having been placed on the record, at this stage it cannot be ascertained as to the relationship between the plaintiff-petitioner and the defendant-respondent.

It is trite that in order to grant an ad interim injunction in favour of the plaintiff-petitioner, he has to make out a *prima facie* case and show irreparable loss and injury and the balance of convenience has to be in his favour. As discussed above, there is no *prima facie* case which has been made out by the plaintiff-petitioner. Even the balance of convenience is not in its favour nor irreparable loss has been shown which would be caused to the plaintiff-petitioner in case the injunction is not granted.

7. In view of the above, no fault can be found with the orders passed by both the Courts. The present revision petition being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

8. It is made clear that any observation made by this Court, First Appellate Court or the Trial Court shall not be treated as an expression of opinion on the merits of the case.

15.10.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO