
(2014) 08 P&H CK 0087
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 4912 of 2014 (O&M)

Vinod Gupta

APPELLANT

Vs

Mehma Singh and Others

RESPONDENT

Date of Decision : 25-08-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2

Citation : (2015) 177 PLR 454

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Advocate : Rajendra Nath Datt, Advocates for the Appellant

Judgement

Rajiv Narain Raina, J.

CM No. 17531-CII of 2014

CM is allowed as prayed for subject to just exceptions.

CM No. 17532-CII of 2014

CM is allowed as prayed for and document is taken on record.

CR No. 4912 of 2014

1. In this order the parties are referred to by their original positions in the suit. Plaintiff has brought this revision challenging the order dated May 01, 2014 passed by Civil Judge (Senior Division) Mohali. Learned counsel for the petitioner has pointed out to the order dated April 29, 2014 passed by Civil Judge (Senior Division) Mohali which indicates that the next date of hearing was fixed for consideration on stay application. On May 01, 2014 the plaintiff's application for temporary injunction under Order 39 Rules 1 & 2 was rejected. However, on the same day, the Civil Judge (Senior Division) Mohali framed issues instead of posting the matter for admission and denial of documents and for framing of issues.

2. Learned counsel complains that an important step in the proceedings has been omitted which has caused prejudice to him inasmuch as he has lost an opportunity to call the defendants to admit and deny documents, which procedure infact is intended to shorten the litigation so that the real issues arising from the pleadings can be struck conveniently. He submits that the issues framed by the Court also do not reflect truly the issues arising which in any case can only crystalize if the defendants are called upon to admit or deny documents and to answer interrogatories in case, they are filed, the opportunity for which has also been denied.

3. There is merit in what the plaintiff submits. The defendants cannot urge before this Court in case, they are issued summons to appear to resist the petition that the plaintiff cannot file application for admissions and denials and interrogatories which are permitted by the Code of Civil Procedure, 1908 as a valuable step in the proceedings. Therefore, this petition is allowed. The petitioner will file an application for admission and denial of documents and to serve interrogatories on the defendants on the next date fixed before the trial Court, i.e. September 15, 2014. The defendants may be called upon to file their replies within a reasonable time thereof after which the learned trial Court would consider the result of the exercise and strike issues accordingly. In case, the issues as already framed arise, they may be retained. If any additional ones arise the trial court would address itself to them.