

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**CMPMO No.413 of 2020****Decided on :03.11.2020****Rambhaj****....Petitioner****Versus****Pradeep & others****.....Respondent****Coram:*****The Hon'ble Mr. Justice Sandeep Sharma, Judge.******Whether approved for reporting?_____***

For the petitioner

: Mr. Rajesh Kumar Sharma,
Advocate.**Justice Sandeep Sharma, Judge (Oral)****(Through Video Conferencing)**

Being aggrieved and dissatisfied with order dated 30.6.2020, passed by learned Civil Judge Shillai, District Sirmour, H.P., whereby an application under Section 151 CPC having been filed by the petitioner-plaintiff, seeking therein police assistance to implement the ad-interim injunction order dated 1.5.2019, passed by the learned Court below, came to be dismissed, petitioner-plaintiff has approached this Court in the instant proceedings filed under Article 227 of the Constitution of India, praying therein to set aside the aforesaid impugned order.

2. Having heard learned counsel representing the petitioner-plaintiff and perused the pleadings adduced on record vis-a-vis reasoning assigned by learned Court below while passing the impugned order, this Court finds no reason to interfere with the

same which otherwise appears to be passed on the basis of proper appreciation of the facts as well as law. Record reveals that vide order dated 1.5.2019 (Annexure P-1) learned Court below restrained the respondents-defendants from digging, interfering and raising construction on the suit land comprised in Khasra Khatauni No. 114/295 to 296 Khasra No. 132, measuring 03-12 bighas, situated at Mohal Bella, Tehsil Shillai, Distt. Sirmour, H.P. till the next date, i.e. 7.5.2019. On 22.6.2019, petitioner-plaintiff filed an application under Section 151 CPC, seeking therein police assistance for the implementation of the ad-interim injunction dated 1.5.2019, issued against the respondents-defendants, but same was dismissed vide order impugned before this Court in the instant proceedings. Careful perusal of the application filed by petitioner-plaintiff, seeking police assistance (Annexure P-5) clearly reveals that there is no specific mention, if any, with regard to date and time when restraint/injunction order passed by learned Court below was violated. Similarly, this Court finds from the contents of the application that there is no mention, if any, with regard to nature and extent of violation allegedly done by the respondents despite there being stay order issued vide order dated 1.5.2019.

3. Consequently, in view of the above, present petition is dismissed being devoid of any merit. However, liberty is reserved to the petitioner-plaintiff to file fresh application mentioning therein

complete detail with regard to time, date and extent of violation of the restrained order, if any, by the respondents-defendants. Needless to say that Court shall decide the application, if any, filed by the petitioner-plaintiff in accordance with law, providing opportunity of being heard to both the parties.

4. Petition is disposed of accordingly, so also, pending application(s), if any.

(Sandeep Sharma)
Judge

November 03, 2020
(reena)