

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

Civil Revision No.1854 of 2008
Date of decision: April 03, 2008.

M/s Shiv Shankar Rice Mills & Ors.

...Petitioner(s)

v.

M/s Bharat Rice Mills & Ors.

...Respondent(s)

CORAM:HON'BLE MR. JUSTICE SURYA KANT

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest.

Present: Shri Iqbal Singh Ratta, Advocate for the petitioners.

ORDER

Surya Kant, J. - (Oral): This Revision Petition is directed against the order dated 25.1.2008 passed by the learned Additional Civil Judge (Senior Division), Safidon whereby the petitioner – defendants have been permitted to alienate the suit property provided that they furnish the bank guarantee of Rs.50 lacs to the satisfaction of the learned trial court.

The respondent – plaintiff has filed a suit for recovery of Rs.40 lacs against the petitioner – defendants. On an application moved by the respondent – plaintiff, the subject property owned by the petitioner – defendants has been attached by the learned civil court.

Two applications were thereafter moved before the learned civil court, i.e., one by the respondent – plaintiff to restrain the petitioner – defendant from alienating the subject property and the other by the

petitioner – defendant 'to release' the subject property so that they could sell the same in terms of an alleged agreement between the defendants and the Bank.

The learned civil court vide the impugned order has permitted the petitioners to alienate the suit property subject to their furnishing bank guarantee of Rs.50 lacs so that if the suit is decreed, the right of the respondent – plaintiff to recover the decretal amount is secured.

Aggrieved, the petitioners have preferred this revision petition alleging, *inter-alia*, that they Could not be asked to furnish the bank guarantee and the learned trial court could at best ask them to furnish the security only, as held by the Andhra Pradesh High Court in the case of **Adduru Dasaratha Rami Reddy and another v. Vamireddy Vishnu (Minor)**, AIR 1992 AP 307.

Having heard Learned Counsel for the Petitioners, I do not find any merit in this revision petition. The very fact that the petitioners want to alienate the suit property in order to discharge some bank liability, by itself is a sufficient ground to ask them to furnish either a bank guarantee and/or not to alienate the suit property so that the interest of the respondent – plaintiff is duly protected. However, if the petitioners own any other immovable property free from incumbrances the value of which might be sufficient to satisfy the plaintiff's claim, they may move an application before the learned trial court for varying/modifying the impugned order to that extent and such an application shall be decided by the learned trial court after hearing both the parties and in accordance with law.

With these observations, dismissed.

April 03, 2008.
kadyan

[**Surya Kant**]
Judge