

**In the Court of Parinder Singh,
Additional District Judge, Amritsar.**

CNR No.
PBAS010207702022

Case No. CA/263/2022



Presented on : 22-12-2022
Registered on : 23-12-2022
Decided on : 07.07.2026.

Lakhbir Singh son of Gurmukh Singh son of Surain Singh, resident of Village Khiala Khurd, Tehsil Ajnala, District Amritsar since deceased through Gulab Singh son.

.....Appellant.

Versus

Sawinder Singh son of Bachan Singh, resident of Village Khiala Khurd, Tehsil Ajnala, District Amritsar.

..... Respondent.

Civil Misc. Appeal against the Order dated 06-12-2022 passed by the Court of Ms.Manpreet Kaur, the then learned Additional Civil Judge (Sr.Division), Amritsar, whereby the application under Order 39 Rule 2-A of Civil Procedure Code filed by applicant/appellant was dismissed.

Present : Sh.M.S.Bhatti, Advocate, counsel for appellant.
Sh.S.S.Bajwa, Advocate, counsel for respondent.

JUDGMENT:

1) Instant appeal has been preferred by the appellant/applicant against the order dated 06.12.2022 passed by the Ld.Court of Ms.Manpreet Kaur, the then Additional Civil Judge, (Senior Division), Ajnala vide which the application moved by the applicant under Order 39 Rule 2-A of the Civil Procedure Code was dismissed.

Pleadings of Applicant

2) Perusal of the record of learned trial Court reveals that applicant/appellant had moved an application under Order 39 Rule 2-A of the Civil Procedure Code with the pleadings that he had filed suit for permanent injunction against the

respondent and others for restraining them from alienating specific khasra numbers, land more than share, from changing the nature of the suit property and further from demolishing the water channel as reflected in Shajra Aksh. Along with his suit, the applicant had moved an application for interim injunction under order 39 rule 1 and 2 read with section 151 of the Civil Procedure Code. Learned Civil Court was pleased to pass the order of status quo in favour of applicant on 02.05.2016 after hearing submissions of the applicant. The respondent was well aware about passing of the said order and he had even appeared before the learned Court through his counsel. On 02.06.2016, the respondent alongwith three armed persons visited the suit property on a tractor-trolley and demolished the water channel which was comprised in khasra no.300/1 and 300. At the time of said occurrence, the applicant and his brother were irrigating their fields and they had shown the order of status quo to the respondent and persons accompanying him, however, they did not pay any heed to stay order and not only demolished the water channel, but also hurled abuses. On raising hue and cry, the respondent and his companions fled from the spot. The applicant reported the matter to the police and in that regard, rapat no.29 was entered on 10.06.2016, but police did not take any action on account of political influence of the respondent. As the respondent has intentionally committed disobedience of the orders of the Civil Court, hence present application.

Pleadings of respondent

3) In pursuance of notice, respondent appeared and filed his written reply taking legal objections that present application is not legally maintainable; applicant has not approached the Court with clean hands; applicant has no cause of action to file present application and present application is not properly

verified.

4) On merits, the respondent explained that no such occurrence had taken place and false application has been moved by concocting the story with the motive of harassing him. Rest of the averments of the petition have been formally denied and finally a prayer for dismissal of the application has been made.

Issues

5) The applicant has not opted to file rejoinder to the written reply of the respondent. From the pleadings of the parties, following issues were framed :-

1. Whether the respondent intentionally and willfully violated the order dated 02.05.2016? OPA.
2. Whether the application is not maintainable in the legal form? OPR.
3. Relief.

Evidence of applicant.

6) In order to prove his allegations, applicant Lakhbir Singh himself stepped into witness box as AW1 and proved the material averments of his application by tendering his sworn in affidavit Ex.AW1/A. He has also placed on record copy of order dated 02.05.2016 Ex.A1 and copy of Rapat no.29 dated 10.06.2016 Ex.A2.

7) The applicant has also opted to examine his co-villagers Bir Singh and Baljinder Singh respectively as AW2 and AW3 who vide their respective sworn in affidavits deposed on the lines of case of applicant that applicant had filed the suit for permanent injunction and his application moved for interim injunction was allowed vide order dated 02.05.2016 whereby defendants of the suit were directed to maintain status quo and despite being aware of stay order, respondent alongwith some armed persons forcibly demolished the water channel and gave threats to the respondent and his brother, who were irrigating their fields. These witnesses have further deposed that the applicant had reported the matter to the

police and a rapat was entered, but police did not take any action on account of political influence of the respondent.

8) In order to prove the rapat dated 10.06.2016, applicant summoned the relevant record through AW4 HC Nirvail Singh. This witness has placed on record attested copy of the rapat Ex.AW4/A and the factum of moving application no.275 dated 02.06.2016 by applicant Lakhbir Singh.

9) Before closing the evidence, the applicant placed on record certified copy of order dated 9-09-2016 Ex.A1, certified copy of statement of defendants dated 9-09-2016 Ex.A2, copy of Aks Shajra Ex.A3, Jamabandi fo the year 2019-20 Ex.A4 and Ex.A6 Copy of Khasra Girdawri Ex.A5 and Ex.A7, certified copy of order dated 2-05-2016 Ex.A8 and copy of Rapat No.34 dated 10-06-2016 Ex.A9.

Evidence of respondent.

10) In order to rebut said evidence, respondent Sawinder Singh himself stepped into witness box as RW1 and vide his sworn affidavit Ex.RW1/A deposed that neither he had demolished any such water channel nor he abused the applicant. The water channel is in existence on the spot and same is being used by the applicant for irrigating his fields and he never violated any such order of the Court.

11) The respondent also opted to examine his co-villagers Jagtar Singh, Tarlochan Singh and Manjinder Singh respectively as RW2 to RW4, who vide their respective sworn affidavits deposed on the lines of version of respondent that respondent did not commit disobedience of any such order of the Court by demolishing the water channel and said water channel is in existence which is being used by applicant for irrigating his fields.

Order of Learned Trial Court

12) Appreciating the evidence on record and hearing the rival submissions of learned counsel for parties, the learned trial Court vide order dated 06.12.2022 dismissed the application of the applicant/appellant.

13) Being aggrieved, the applicant preferred present appeal and same is being contested by the respondent by appearing through counsel.

14) Rival submissions of learned counsel for parties have been heard.

Arguments of Appellant/applicant

15) Learned counsel for the applicant opened his arguments with the submission that applicant and respondent are co-sharers in the joint khewat and they are in possession of their respective shares since long. As the respondent had started threatening sale of specific portion of land and that also more than his share and demolition of the sanctioned water channel, the appellant filed a suit for permanent injunction. Alongwith his suit, the appellant had moved an application for interim injunction which was allowed by learned Civil Court vide order dated 02.05.2016 Ex.A8 with a direction to the respondent and other defendants to maintain status quo. The respondent was conveyed the copy of stay order through registered post and he had even appeared before learned trial Court through counsel. Thus, he was well aware about the passing of the said stay order, but in disobedience of the same on 02.06.2016, he alongwith some muscle-men demolished the water channel when applicant alongwith his brother was irrigating the fields. The appellant without any delay reported the matter to the police with regard to which rapats Ex.AW4/A and Ex.A9 were entered. Despite having verified the genuineness of the allegations of appellant, police did not take any action against the respondent on account of his political influence and asked the

appellant to approach Civil Court. He further added that after having appeared before learned Civil Court in the suit for permanent injunction, respondent and other defendants admitted the claim of appellant by getting their respective statements dated 09.09.2016 Ex.A2 recorded and thus learned Civil Court decided said suit by holding that respondent and other defendants would remain bound by said statements vide order dated 09-09-2016 Ex.A1. On account of being aggrieved of inaction of police and disobedience of the stay order, the appellant moved an application under Order 39 Rule 2-A of the Civil Procedure Code and proved his entire version by himself stepping into witness box and by examining various eye witnesses and also by proving the relevant rapats entered in the police station on the complaint moved by the appellant. As is apparent from from written reply submitted by respondent, he failed to give any such convincing explanation with regard to the occurrence, however, learned trial Court on the basis of surmises and conjecture, jumped to the conclusion that appellant had failed to prove his allegations. There is ample evidence on the record establishing the disobedience of the order of the Court which has caused inconvenience to the appellant in irrigating his fields. Thus, learned counsel for the appellant concluded his arguments with the prayer for acceptance of the appeal and passing an order of punishment to the respondent.

Arguments of Respondent

16) In reply, learned counsel for respondent argued that a false application under Order 39 rule 2-A of Civil Procedure Code was moved by appellant with the sole motive of harassing and humiliating the respondent. Without any cause of action, the appellant had earlier filed suit for permanent injunction. On getting notice of said suit, the respondent and other defendants appeared and clarified to

the Court that they were not having intention of committing any such wrong. Accepting said statement of the respondent and other defendants, appellant withdrew his suit on 09.09.2016 unconditionally. However, thereafter in order to harass the respondent, he concocted a false story of demolition of the water channel on 02.06.2016 and moved application under Order 39 rule 2A of the Civil Procedure Code after 20 days of withdrawal of the suit. It has been rightly observed by the learned trial Court that the appellant has miserably failed to prove his allegations of demolition of any such water channel. Neither he could place on record any such photograph of the occurrence nor has examined any revenue official who could have substantiated his version regarding causing of damage to the water channel. The water channel is in existence even at present and same is being used by the appellant and others for irrigating their fields. Moreover, there was no such order of status quo with regard to any such water channel and thus, even in case the respondent had demolished the water channel, present proceedings were not legally maintainable. With these submissions, learned counsel for the the respondent conclude his arguments and finally prayed for dismissal of the appeal.

17) Rival submissions of learned counsel for the parties have been considered and record has been perused.

Findings

18) In the case in hand the appellant has claimed that the respondent committed disobedience of the order of interim injunction dated 02-05-2016 Ex.A8 passed by the learned court of Sh.Gurbir Singh, Additional Civil Judge, Ajnala. Perusal of said order reveals that the present respondent and other defendants of said case were restrained from changing the nature of suit land. As

the water channel in question was part of the suit property, it can be safely said that respondent and other defendants were even bound not to demolish said water channel which was in running condition at the time of passing of said order. Thus, the objection of learned counsel for the respondent that said order did not operate on the water channel is not legally sustainable and this court differs on this point from the findings of learned trial court.

19) The onus was on the appellant to prove disobedience of the order and in order to discharge the same, the appellant himself stepped into witness box and examined AW-2 Beer Singh and AW3 Baljinder Singh. AW-2 Beer Singh and AW-3 Baljinder Singh have tendered affidavits verbatim to the affidavit of appellant. Though it has been claimed that Beer Singh and Baljinder Singh had witnessed the occurrence but in none of these affidavits, it has been specifically mentioned that they were present in the fields. The names of these witnesses also not find mention in the application moved under Order 39 Rule 2-A of the Civil Procedure Code and the rapats Ex.AW4/A and ExA9 relied upon by the appellant. Thus, in these circumstance no reliance could have been placed on the statements of these witnesses and there remained sole statement of appellant himself and rapats entered in the police stations.

20) It has been rightly pointed out by learned counsel for the respondent that appellant did not inform any such disobedience to the civil court during pendency of the suit but accepting the undertaking given by respondent and other defendants, withdrew his suit and only thereafter application under Order 39 Rule 2-A of the Civil Procedure Code was filed. The act of the appellant of withdrawal of his suit even without disclosing his grievance, clearly infers that even in case any such disobedience was committed by respondent, same was

ignored/pardoned.

21) Though the appellant has proved rapat regarding reporting of the matter to police but he has failed to prove the contents of rapat Ex.A9 which could have been proved only from the examination of SI Sulakhan Singh who had inspected the place of occurrence. The appellant has also failed to explain that in case the water channel was demolished by the respondent, how it was restored. Since it was a public/sanctioned water channel, record pertaining to its damage and repair would have also been maintained by the canal/concerned department. However, no such record was summoned in order to convince the court.

22) From the above discussion, this court is of the considered opinion that applicant had failed to discharge his onus and convince the court that respondent had committed disobedience of any such order of the court. Even in case for the sake of arguments, it is presumed that respondent had caused any such disobedience, in that case also this court is not required to impose any such punishment as the primary object of Order 39 Rule 2-A of the Civil Procedure Code is only to provide immediate relief to the plaintiff/applicant and not to prosecute/punish the defendant/respondent. Admittedly, on the date of final decision of the suit, the water channel was in working/running condition which means even in case any such damage was caused, same stood repaired even before filing of application under Order 39 Rule 2-A of the Civil Procedure Code. Thus, no further relief was required to be given to the appellant for the purpose of putting him to the position prior to disobedience of the orders.

23) In view of above discussion this court is of the considered opinion that impugned order of dismissal of the application moved under Order 39 Rule 2-A of the Code does not deserve any interference. Accordingly, appeal in hand stands

dismissed. Record of learned trial court be returned forthwith after placing copy of this judgment, whereas appeal file be consigned to record room.

**Pronounced in open court
on dated 07.07.2026.**

Karamjeet Kaur, Stenographer I

**(Parinder Singh)
Addl. District Judge,
Amritsar.UID No.(PB0247)**