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

CR-1426-2025 (O&M)
Date of decision: 09.07.2025

Harikiran Singh Sodhi

...Petitioner

Versus

Devinder Singh Sodhi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gaurav Chopra, Sr. Advocate with
Mr. Divanshu Jain, Advocate and
Mr. Jatin Bansal, Advocate and
Ms. Gauri C. Kaushal, Advocate and
Mr. Harmeet Singh, Advocate for the petitioner.

Ms. Kushaldeep Kaur, Advocate and
Mr. Nishant Raj Ghangas, Advocate and
Ms. Sharvi Dadhwal, Advocate for respondent Nos.1 and 2.

Mr. Shekhar Verma, Advocate and
Mr. Sumit Narang, Advocate and
Mr. Lalit Sharma, Advocate and
Mr. Rahul Chadha, Advocate
for respondent Nos.3-UCO Bank.

VIKAS BAHL, J. (ORAL)

1. The present petitioner who is defendant No.3 in the main suit has filed the present revision petition under Article 227 of the Constitution of India for setting aside the order dated 03.01.2025 (Annexure P-25) passed by the Civil Judge (Junior Division), Ludhiana in Civil Suit No.19444 of 2023, titled as "Davinder Singh Sodhi Vs. Prem Kaur &



Others", whereby the Civil Judge (Junior Division), Ludhiana while adjudicating upon a clarification application filed by defendant No.7/respondent No.3-Bank has directed the said Bank to not release 80% of the FDRs amount in favour of the petitioner.

ARGUMENTS ON BEHALF OF THE PETITIONER/DEFENDANT
NO.3:-

2. Learned Senior Counsel for the petitioner has submitted that Parminder Kaur along with Mrs. Prem Kaur widow of Samarjit Singh (defendant No.1 in the main suit) had an account in UCO Bank, Civil Lines, Ludhiana, mode of operation of which was "Either or Survivor" and the account number was 05340110012543 and to prima facie substantiate the same, has referred to the relevant portion of the passbook which has been annexed as Annexure P-1 along with the revision petition. It is submitted that from the said account, four joint FDRs were made in the name of Mrs. Parminder Kaur and the present petitioner-Harikiran Singh Sodhi (defendant No.3 in the main suit). It is submitted that the said four FDRs have been annexed as Annexure P-2 along with the present petition and a perusal of the same would show that the said four FDRs, which have been made on 06.08.2022, 22.05.2023, 20.04.2023 and 24.03.2023 respectively, are all with an endorsement of "Either or Survivor" meaning thereby that the said FDs could be operated either by Mrs. Parminder Kaur or by the present petitioner/defendant No.3 and in case, one of the two died, then, the other party would be entitled to encashment of the said FDRs. Learned Senior Counsel for the petitioner has further highlighted the said FDRs as well as FDR account numbers (Annexure P-2 colly) i.e., FDR No.602613



bearing FDR Account No.05340310106808 (at page 59 of the paper book), FDR No.717098 bearing FDR Account No.05340310112731 (at page 60 of the paper book), FDR No.717075 bearing FDR Account No.05340310112205 (at page 61 of the paper book) and FDR No.717056 bearing FDR Account No.05340310111598 (at page 62 of the paper book), and also the account number of the previous account of Parminder Kaur and Prem Kaur Sodhi in order to show that the said account/FDR/FDR account are not the subject matter of the civil suit which has been filed by respondent Nos.1 and 2/plaintiffs. It is further submitted that Parminder Kaur had died on 27.08.2023 and for the said purpose, has referred to her Death Certificate dated 30.08.2023 which has been annexed as Annexure P-3 with the paper book.

3. Learned Senior Counsel for the petitioner has further referred to the UCO Bank policy on settlement of claim in respect of deceased account holder as well as the impugned order in which relevant portion of the said policy with respect to survivorship has been highlighted and has submitted that as per the same, where operational mandate of an account is “Either or Survivor” or “Anyone or Survivors”, then, such a mandate would permit the surviving account holder(s) to have unimpeded access to the credit balance in the account for withdrawal, if one of the co-account holder(s) dies. It is argued that as per settled law and also as per the policy of the bank, it is the present petitioner who was entitled to withdraw the entire amount in the said four FD accounts. It is further argued that in pursuance of the said right, the petitioner had prior to the filing of the suit i.e., on 01.09.2023 got the above said four FDRs encashed into his account



and from his account had created two FDRs i.e., FDR No.380008 bearing FDR Account No.05340310114612 (Annexure P-6 at page 160 of the paper book) and FDR No.380007 bearing FDR Account No.05340310114605 (at page 161 of the paper book). It is submitted that the said FDRs carry endorsement of “SELF” and are in the same name of the present petitioner. It is argued that subsequent to the opening of the said FD accounts, respondent Nos.1 and 2/plaintiffs on 22.09.2023 had filed a civil suit in which several prayers were made including the prayer with respect to several accounts but no specific prayer was made with respect to account No.05340110012543 in UCO Bank, Civil Lines, Ludhiana or to the four FDRs which were “Either or Survivor” [Annexure P-2 (colly)] or to the two FDRs [Annexure P-6 (colly)] which were created in the name of the present petitioner and all of the said FDRs were in UCO Bank, Civil Lines, Ludhiana.

4. Learned Senior Counsel for the petitioner has further highlighted that although, one of the prayer in the suit was a general prayer for injunction restraining the defendants from withdrawing or debiting or transferring or liquidating, operating any bank account or FDR or locker but the same was made with respect to FDR/bank account/locker which is in the name of Parminder Kaur. It is submitted that on the date of filing of the suit, the FDRs in question were not in the name of Parminder Kaur and thus, the question of grant of any indirect injunction with respect to the said FDRs is even beyond the prayers made in the suit and is impermissible in law. It is argued that the said Parminder Kaur before her death had executed the Will dated 26.08.2022 (Annexure P-5) vide which the said Parminder Kaur had



given 50% of her entire property including all monies standing to her credit at whichever bank or financial institution to the present petitioner/defendant No.3 and the balance 50% to her daughter-in-law namely Sodhi Prem Kaur @ Prem Kaur (defendant No.1) and nothing was given to the plaintiffs/respondent Nos.1 and 2. It is further submitted that regarding the said Will, grant of probate had also been ordered by the Family Justice Courts of the Republic of Singapore on 18.09.2023 and the said grant of probate has been annexed as Annexure P-5 colly with the paper book.

5. Learned Senior Counsel for the petitioner has submitted that along with the suit filed by respondent Nos.1 and 2/plaintiffs, an application under Order 39 Rules 1 and 2 CPC had also been filed and the trial Court vide order dated 22.09.2023 (Annexure P-8 at page 193 of the paper book) was pleased to observe that at that stage, no ground was made out to grant ex parte stay and that the trial Court deemed it appropriate to hear the opposite party i.e., defendants first. It is submitted that no appeal against the said order has been filed and till date, the said application under Order 39 Rule 1 and 2 CPC has not been decided yet by virtue of the impugned order, on a clarificatory application filed by defendant No.7-bank, an injunction order has been passed against the petitioner. It is submitted that the said procedure is unknown to law and the impugned order has caused serious prejudice to the rights of the petitioner. Learned Senior Counsel for the petitioner has further submitted that although subsequent to the filing of the suit, an application under Order 6 Rule 17 CPC (Annexure P-10) for the amendment of the plaint was filed by respondent Nos.1 and 2/plaintiffs but even in the said amendment application, no prayer with respect to the



accounts/FDRs in question was made. It is submitted that the said amendment application is still pending and has not been allowed till date.

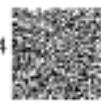
6. Learned Senior Counsel for the petitioner has further submitted that defendant Nos.1 to 5 (including the present petitioner) had filed applications under Order 7 Rule 11 CPC and also under Order 7 Rule 10 CPC for rejection of the plaint. It is submitted that even defendant No.7-bank had filed an application under Order 7 Rule 11 CPC for rejection of the plaint and the trial Court vide order dated 09.08.2024 was pleased to observe that the applications under Order 7 Rule 11 CPC and under Order 7 Rule 10 CPC would be decided first and while deciding the same, the effect of filing of the application for amendment of the plaint would be seen. It is submitted that although, an application for review of order dated 09.08.2024 had been filed by respondent Nos.1 and 2 but the same was dismissed on 05.03.2025 and the suit is pending for decision on the said applications under Order 7 Rule 11 CPC and under Order 7 Rule 10 CPC filed by the petitioner along with other defendants. It is argued that defendant No.7-bank had moved a completely misconceived application on 23.09.2024 (Annexure P-19) for passing appropriate orders with respect to FDR account/FDRs in spite of the fact that there was no injunction in favour of plaintiff nos.1 and 2 and also in spite of the fact that even as per the bank's own policy FDR accounts which were endorsed "Either or Survivor" had to be released in favour of Survivor and FDRs which were in the personal name of the petitioner and had been created prior to the institution of the suit in any case had to be released in favour of the present petitioner. It is submitted that a detailed reply to the said application was filed by the



present petitioner (Annexure P-20) and in the said reply, it was specifically stated that the FDRs in question were in the personal name of the present petitioner and were not at all the subject matter of the suit and there was no stay regarding the said FDRs and even the Rules and Regulations of the bank required the FDRs to be released in favour of the petitioner. It is submitted that since, defendant No.7-Bank was unnecessarily harassing the petitioner, thus the petitioner had filed CWP-14269-2024 and since a miscellaneous application had been filed by the bank before the Civil Court, thus the said writ petition was withdrawn with request to the Civil Court to decide the said frivolous application as expeditiously as possible.

7. Learned Senior Counsel for the petitioner has submitted that the trial Court, vide order dated 03.01.2025, had illegally directed defendant No.7-UCO Bank to only release 20% of the FDRs amount which were created in the joint name of the present petitioner and Parminder Kaur along with proportionate interest and remaining amount of FDRs issued jointly in the name of the present petitioner and the deceased Parminder Kaur was ordered to be kept in the bank till further orders passed by the Court in the suit. It is submitted that the said order is absolutely illegal and deserves to be set aside on several grounds.

8. It is submitted that in effect injunction has been granted against the petitioner with respect to FDRs/accounts which are not even the subject matter of the suit and the same is unknown to law, inasmuch as, no interim order can be passed with respect to the account/subject matter which is not a subject matter of the main civil suit. It is further submitted that the impugned order also deserves to be set aside on the ground that respondent



Nos.1 and 2 had filed an application under Order 39 Rules 1 and 2 CPC and in the said application, ad interim injunction was rejected and the said application is yet to be decided. It is submitted that by passing the impugned order, even the right of the petitioner to defend the said application under Order 39 Rules 1 and 2 CPC has been seriously prejudiced. The third ground raised by the learned Senior Counsel for the petitioner to challenge the impugned order is to the effect that in the impugned order, there is no observation that there is a *prima facie* case in favour of plaintiff Nos.1 and 2 and even the other two aspects of irreparable loss and balance of convenience have not been duly considered by the Civil Court prior to granting said injunction. It is submitted that plaintiff Nos.1 and 2 have no *prima facie* case, more so, with respect to FDRs in question, inasmuch as, apart from the fact that they have not been made subject matter of the suit even the joint FDRs of Parminder Kaur and present petitioner carried an endorsement of "Either or Survivor" and as per the policy of the bank, after the death of Parminder Kaur, it is the present petitioner who is entitled to receive the money under the same. It is submitted that the Court, after having reproduced the said policy, has completely misconstrued the same. It is further submitted that even the last Will dated 26.08.2022 which has been probated does not give any amount/property to respondent Nos.1 and 2 and thus, it is apparent that respondent Nos.1 and 2 have no *prima facie* case in their favour.

9. Learned Senior Counsel for the petitioner has further submitted that the petitioner has already paid substantial income tax on the interest amount of FDs but is not able to utilize the full amount in the FDs and has



thus, suffered irreparable loss. It is argued that the impugned order is also in the teeth of earlier orders passed by the trial Court, inasmuch as, the Court first rejected the prayer for ad interim injunction and thereafter on 09.08.2024, had observed that the applications under Order 7 Rule 11 CPC and under Order 7 Rule 10 CPC filed by the petitioner and other defendants including the bank were required to be decided first. It is submitted that it is respondent Nos.1 and 2 who are delaying the proceedings, more so, after the impugned order had been passed in favour of respondent Nos.1 and 2. It is further submitted that the impugned order granting injunction has been passed on an application filed by defendant No.7-bank and grant of injunction in favour of the plaintiffs on an application filed by one of the defendants in the suit is unheard in law. It is thus, prayed that the present revision petition be allowed and the impugned order be set aside.

10. In the present case, notice of motion was issued to respondent Nos.1 to 3 only as there are only three respondents who are the contesting parties i.e., respondent Nos.1 and 2 being plaintiffs and respondent No.3 being defendant No.7-bank who had moved the application for clarification on which the impugned order has been passed. Notice regarding stay was also issued and thereafter, the case was adjourned to 16.05.2025 for arguments.

ARGUMENTS ON BEHALF OF RESPONDENT NO.3/DEFENDANT NO.7-BANK:-

11. Learned counsel appearing on behalf of respondent No.3-bank (defendant No.7 in the main suit) has submitted that they had filed an application for clarification with respect to release of FDRs as a matter of



abundant precaution as both the parties were approaching the bank claiming the right over the FDRs in question. Learned counsel has however not disputed that as per the policy, relevant portion of which is reproduced in the impugned order (at page 342 of the paper book), in the case of "Either or Survivor", surviving account holder is required to have unimpeded access to the credit balance in the account for withdrawal, if one of the co-account holder(s) dies. It is further not disputed that the FDRs in question (Annexure P-2 colly) carry the endorsement of "Either or Survivor". It is further submitted that the bank would abide by the directions given by this Court, as the Bank has no personal interest in the present litigation.

ARGUMENTS ON BEHALF OF RESPONDENT NOS.1 AND 2
(PLAINTIFFS):-

12. Learned counsel appearing on behalf of respondent Nos.1 and 2 (plaintiffs) has vehemently opposed the present revision petition and has submitted that the present petition is meritless and deserves to be dismissed. It is further submitted that the impugned order has been rightly passed by the trial Court after taking into consideration the facts of the entire case and in order to balance equities between the parties, learned counsel has referred to the averments made in the plaint to contend that the plaintiffs have a good *prima facie* case in their favour. It is submitted that Parminder Kaur who was the admitted owner of the properties in question had in fact executed a Will dated 11.04.2010 in her sound disposing mind and had equally distributed her assets between the plaintiffs and defendants and had given 20% each to the plaintiffs namely Davinder Singh Sodhi and Ripudaman Singh Sodhi and 20% to Samarjit Singh Sodhi, 20% to Gurpreet



Singh and even 20% to the present petitioner/defendant No.3. It is further submitted that Samarjit Singh Sodhi had died leaving behind defendants Nos.4 and 5, thus, they had jointly succeeded to his 20% share under the Will dated 11.04.2010. It is submitted that the said Will though unregistered but was duly executed and on account of the same, there was fair distribution with respect to the assets of Parminder Kaur and that the subsequent Will dated 26.08.2022 propounded by the present petitioner/defendant No.3 was not duly executed as at the time of the execution of the said Will, Parminder Kaur was not keeping good health and was not in the right mental state.

13. It is submitted that the suit was filed since defendant Nos.1 to 3 were siphoning off the money belonging to Parminder Kaur to which the plaintiffs were also entitled to in the proportion mentioned in the Will dated 11.04.2010. It is argued that the details of the accounts/properties in knowledge of the plaintiffs were mentioned in the plaint and since the plaintiffs did not have specific knowledge with respect to FDR accounts in question (Annexures P-2 and P-6) on the date of filing of the suit, thus, the same were not specifically mentioned but subsequently, when the said FDR accounts were known, the trial Court after taking into account the averments made in the plaint had granted an injunction order in order to protect the properties/FDRs to which the plaintiffs could also be held to be ultimately entitled to. It is further submitted that the plaintiffs had moved an application dated 11.11.2024 (Annexure P-24) for directing the defendant No.7-UCO Bank not to release the amount of the FDRs/accounts maintained in UCO Bank after giving specific details of the FDRs and



accounts in question. It is submitted that the said application is pending adjudication and since the said application had been filed, it was open to the trial Court to pass the order with respect to the said FDR accounts also. It is thus, submitted that the impugned order is in accordance with law and deserves to be upheld and revision petition filed by the petitioner deserves to be dismissed.

ANALYSIS AND FINDINGS:-

14. This Court has heard learned counsel for the parties and has perused the paper book and finds that the impugned order dated 03.01.2025 passed by the trial Court on an application filed by respondent No.3/defendant No.7-bank for clarification is against law and deserves to be set aside for the reasons which are detailed hereinafter.

15. Before detailing the reasons, it would be relevant to reproduce the relevant portion of the said impugned order. The same is reproduced hereinbelow:-

“So, in view of my above discussion, while deciding the application in hand, the applicant/defendants/UCO bank is hereby directed and is at liberty to release only 20% of the FDRs amount which were created in the joint name of deceased Parminder Kaur and of defendant no.3 Harikiran Singh Sodhi alongwith proportionate interest as accrued to the extent of 20% as agreed to the said defendant no.3 as per the rules of the bank applicable in this regard and remaining amount of the FDRs issued jointly in the name of deceased Parminder Kaur and defendant no.3 Harikiran Singh Sodhi be kept with applicant bank i.e. UCO bank till further orders passed by this Court in the present suit.”



A perusal of the above part of the order would show that while deciding the application for clarification filed by the bank, the trial Court had directed the bank to only release 20% of FDRs amount which were created in the joint name of the deceased Parminder Kaur and of present petitioner/defendant No.3 Harikiran Singh Sodhi along with proportionate interest as accrued on the said 20% and remaining amount of FDRs which were jointly issued in the name of deceased Parminder Kaur and the present petitioner/defendant No.3 were ordered to be kept with UCO Bank till further orders in the suit. The said order/direction is illegal for more than one reason:-

i) It is not in dispute that along with the suit, the plaintiffs-respondent Nos.1 and 2 had filed an application under Order 39 Rules 1 and 2 CPC and on 22.09.2023, the Civil Court had rejected the grant of ex parte stay. The said order dated 22.09.2023 is reproduced hereinbelow:-

“Devinder Singh Sodhi Vs. Prem Kaur and others

CS/19552/2023

Present: Sh. Aditya Jain Advocate for the plaintiff.

*Suit/plaint received by way of entrustment. Report of reader seen. It be registered. Along with the suit the plaintiff has filed an application u/o 39 rule 1 & 2 and Section 151 CPC. Heard. **At this stage no ground is made out to grant ex parte stay and this court deems it fit appropriate to hear the opposite party i.e. defendants first.** Notice of the suit as well as of stay application through ordinary service be given to defendants for 27.09.2023 on the filing of PF,RC Copies of plaint, application, documents etc. Dasti be issued if so desired. Summons to defendant no. 11 be issued as per rules.*

Date of Order: 22.09.2023

Sd/-



Raj Karan
Civil Judge (Junior Division)
UID NO. PB00414"

It is further not in dispute that the abovesaid order has not been challenged and till date, the application under Order 39 Rules 1 and 2 CPC has not been decided. The impugned order, vide which, in effect partial injunction/restraint order had been granted on the clarificatory application filed by respondent No.3-bank is unknown to law. It is a matter of settled procedure that Civil Court has power to grant ad interim injunction at the initial stage of the suit after considering the averments in the plaint on the three aspects of *prima facie* case, balance of convenience and irreparable loss. Once, the trial Court had chosen not to grant any *ex parte* stay then without deciding the application under Order 39 Rules 1 and 2 CPC and without the written statement of all the defendants including the petitioner having been filed, it was not appropriate for the trial Court to pass an order indirectly granting injunction and that too on a clarificatory application filed by defendant No.7. If on the reading of the plaint, no case for injunction was made out, then, at a subsequent stage without the written statements having been filed, it is inconceivable as to how the trial Court would find a *prima facie* case along with other two ingredients in favour of plaintiff Nos.1 and 2, which it did not find at an earlier stage.

ii) A perusal of FDRs (Annexure P-2 colly) would show that same were made on 06.08.2022, 22.05.2023, 20.04.2023 and 24.03.2023 in UCO Bank, Branch Civil Lines, Ludhiana and the same were in the name of Mrs. Parminder Kaur as well as petitioner/defendant No.3 and the same carried



specific endorsement of “Either or Survivor”. The policy of the bank (Annexure P-4) (at page 64 of the paper book), relevant portion of which had been reproduced in the impugned order (at page 342 of the paper book), is also reproduced hereinbelow:-

“1.B Survivorship

For customers who opt for opening joint account, Bank will educate them about the advantages of opening the account with operational mandate such as -"Either or Survivor" or-"Anyone or Survivors" or-"Former or Survivor" or-“Latter or Survivor". Such type of mandate will permit the surviving account holder(s) to have unimpeded access to the credit balance in the account for withdrawal, if one of the co-account holders dies.

In the event of death of co-account holder, payment to surviving account holder or allowing of operation to surviving account holder will be done in the normal course subject to the only rider that there is no order from a competent Court restraining the Bank from doing so.”

A perusal of the above would show that where operational mandate of FDR is “Either or Survivor” as in the case of FDRs (Annexure P-2 colly) then such type of mandate would permit the surviving account holders to have unimpeded access to the credit balance in the account for withdrawal, if one of the account holders dies and the same is only subject to one rider i.e., there being no restraint order from the Court against the bank from doing so. It is not disputed that prior to the passing of the impugned order dated 03.01.2025, there was no restraint order against the bank, more so, with respect to the FDRs in question (Annexure P-2 colly), (Annexure P-6 colly). In fact, the ad interim injunction prayed for by



plaintiff Nos.1 and 2 was rejected and even FDRs in question (Annexure P-2 colly), (Annexure P-6 colly) were not a subject matter of the suit. Moreover, at any rate, even as per the policy of the bank which policy has not been disputed by the counsel for the bank before this Court, the amount of the FDRs had to be released in favour of the petitioner, who was admittedly the only survivor after the death of Mrs. Parminder Kaur in the said FDRs (Annexure P-2 colly) of Parminder Kaur and the present petitioner/defendant No.3. In the impugned order, the said policy has been reproduced but the trial Court instead of giving effect to the same, passed an order in violation of the same. It would also be relevant to note that the said FDRs (Annexure P-2) were permitted to be encashed by the petitioner as per the abovesaid policy by the said bank and even subsequent two FDRs (Annexure P-6) dated 01.09.2023 were also permitted to be prepared by the bank in favour of the petitioner prior to the filing of the suit. The bank was right in permitting the petitioner to have made two FDRs (Annexure P-6) but subsequently for the reasons best known to them, moved an application for clarification which application is also unknown to law, inasmuch as, it was for the bank officials to process the FDRs in accordance with the Rules and Regulations which govern the bank.

iii) It is not in dispute that the original account No.05340110012543 (Annexure P-1) in UCO Bank, Civil Lines, Ludhiana which was in the name of Parminder Kaur and Mrs. Prem Kaur Sodhi and was opened on 30.12.2010 and the mode of operation of which was "Either or Survivor" and the four FDRs (Annexure P-2 colly) which are in the name of Mrs. Parminder Kaur and the present petitioner/defendant No.3 i.e., FDR



No.602613 bearing FDR Account No.05340310106808 (at page 59 of the paper book), FDR No.717098 bearing FDR Account No.05340310112731 (at page 60 of the paper book), FDR No.717075 bearing FDR Account No.05340310112205 (at page 61 of the paper book) and FDR No.717056 bearing FDR Account No.05340310111598 (at page 62 of the paper book) also carrying the endorsement of “Either or Survivor” and also the FDRs (Annexure P-6 colly) dated 01.09.2023 i.e., FDR No.380008 bearing FDR Account No.05340310114612 (at page 160 of the paper book) and FDR No.380007 bearing FDR Account No.05340310114605 (at page 161 of the paper book), **are not the subject matter of the suit (Annexure P-7)** which was filed on 22.09.2023, although all the abovesaid accounts/FDRs were in existence prior to the filing of the suit. It would be relevant to note that the abovesaid four FDRs (Anneure P-2 colly) had been encashed by the petitioner in his account and from his account, the petitioner had made two FDRs on 01.09.2023 in his name (Annexure P-6 colly) and thus, on the date when the suit was filed, the four FDRs in question (Annexure P-2 colly) which were in the joint name of Parminder Kaur and the petitioner/defendant No.3 were also not in existence. The direction given in the impugned order is admittedly beyond the subject matter of the suit, which as per settled law is not permissible and is with respect to FDRs/amount in FDRs, regarding which no specific prayer had been made by the plaintiffs in the main suit.

Although, an application for amendment under Order 6 Rule 17 CPC had been filed by plaintiff Nos.1 and 2 but it is also not disputed before this Court that the abovesaid accounts/FDRs (Annexure P-1),



(Annexure P-2 colly), (Annexure P-6 colly) are not part of the said application also. Moreover, the said application under Order 6 Rule 17 CPC is admittedly pending and has not been decided till date. It is also not in dispute that even in the application under Order 39 Rules 1 and 2 CPC, no specific relief with respect to abovesaid FDRs/FD Accounts/accounts (Annexure P-1), (Annexure P-2 colly), (Annexure P-6 colly) has been prayed for. In the said circumstances, the question of granting any interim injunction/restraint order with respect to FDRs/accounts which are not subject matter of the main suit is unknown to law. It is a matter of settled law that interim orders/injunctions cannot be granted beyond the prayer made in the main suit. Thus, the impugned order deserves to be set aside on the said ground alone.

Argument raised on behalf of learned counsel for respondent Nos.1 and 2 that application dated 11.11.2024 (Annexure P-24) was filed by the plaintiffs for directing defendant No.7-UCO Bank not to release the amount of FDRs and accounts and in the same, FDRs in question have been mentioned, does not even remotely further the case of plaintiff Nos.1 and 2, inasmuch as, it is not disputed that the said application has not been decided till date and it is not the said application on which the impugned order dated 03.01.2025 had been passed. Moreover, it is also not disputed that in spite of the said application having been moved, no application for amendment under Order 6 Rule 17 detailing the accounts and FDRs which have been mentioned in the application (Annexure P-24) has been filed, much less, allowed and the earlier application filed under Order 6 Rule 17 CPC for amendment does not contain the said FDRs/accounts. Thus, merely by



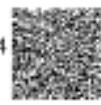
moving an application, the same would not become a part of the pleadings so as to entitle plaintiff Nos.1 and 2 to agitate seeking injunction of the same. Moreover, a perusal of the application (Annexure P-24) would show that even in the said application, no prayer with respect to joint FDRs (Annexure P-2 colly) has been made.

iv) The trial Court while passing the impugned order dated 03.01.2025 had not considered or opined as to whether the plaintiffs have *prima facie* case in their favour. Apart from the FDRs (Annexure P-2 colly) carrying the endorsement of “Either or Survivor” as detailed in point No. (ii), it would be relevant to note that it is the case of plaintiff Nos.1 and 2 that there is an unregistered Will dated 11.04.2010 executed by Parminder Kaur distributing her assets equally among the plaintiffs and some of the defendants, including the petitioner/defendant No.3. On other hand, it is the case of petitioner/defendant No.3 that there is a subsequent Will dated 26.08.2022 (Annexure P-5 colly) executed by Parminder Kaur vide which plaintiff Nos.1 and 2 have not been given any right in the properties/assets and the properties/assets have been divided between the petitioner/defendant No.3 and defendant No.1 and that regarding the said Will dated 26.08.2022, the Family Justice Courts of the Republic of Singapore had granted ‘Grant of Probate’ (Annexure P-5 colly). The question as to whether in such circumstances a subsequent Will regarding which there is an order of probate would prevail over the earlier Will was also required to be considered by the trial Court in addition to the other factors before giving a *prima facie* opinion about the merits of the case. In the impugned order, there is no observation to the effect that plaintiffs have



good *prima facie* case and thus, without opining with respect to the same, impugned order granting “in effect” injunction cannot be sustained. By passing the impugned order, application under Order 39 Rules 1 and 2 CPC has been prejudged. Application under Order 39 Rules 1 and 2 CPC, after non-grant of *ad interim* injunction, is to be decided after taking into consideration the pleas raised by both the parties, on the basis of three settled principles of law i.e., *prima facie* case, balance of convenience and irreparable loss and the impugned order violates the same.

v) A perusal of the order dated 09.08.2024 passed by the trial Court which had been reproduced in the impugned order dated 03.01.2025 would show that the trial court at an earlier stage, after considering the arguments raised by both the sides, had observed that the applications under Order 7 Rule 11 CPC and under Order 7 Rule 10 CPC filed by the defendants including the present petitioner and bank, were required to be decided first and while deciding the same, the effect of filing of the application for amendment of the plaint would be seen. It is not disputed that till date, applications under Order 7 Rule 11 CPC and under Order 7 Rule 10 CPC have not been decided and the case is now posted for 19.07.2025 for arguments on the applications under Order 7 Rule 11 CPC and under Order 7 Rule 10 CPC in addition to other aspects. Although, the application (Annexure P-19) filed by the UCO Bank for appropriate orders was required to be expeditiously decided in view of order dated 07.11.2024 passed by the Coordinate Bench of this Court in CWP-14269-2024 but that would not operate as a mandate to decide the application illegally. There was no direction to allow the application or to pass a restraint order and the



sole direction was to consider the application expeditiously. The application filed by the bank-defendant No.7 for passing appropriate orders regarding the matured accounts/maturity value of accounts/matured FDRs was absolutely misconceived, inasmuch as, once ad interim injunction was not granted in favour of plaintiff Nos.1 and 2 and the policy of the bank required that the amount of FDRs in question is to be released to the petitioner, then, the said application was completely uncalled for. Moreover, in the detailed reply (Annexure P-20) filed by the petitioner to the clarificatory application, the petitioner had raised specific objections including the fact that FDRs in question (Annexure P-2 colly), (Annexure P-6 colly) are not subject matter of the civil suit and the FDRs (Annexure P-6 colly) were in the personal name of the petitioner and even as per the Rules and Regulations and norms of the bank, the same were required to be permitted to be encashed in favour of the petitioner but without considering the said specific objections which were meritorious, the trial Court had passed the impugned order.

vi) The trial Court instead of considering the abovesaid important aspects and deciding the clarificatory application in accordance with law, observed that in case FDRs are allowed to be encashed then the same would not be recoverable. The said sole factor cannot override the abovesaid vital issues which stand completely in favour of the petitioner. Moreover, a perusal of the plaint would show that there are several properties/accounts which are involved in the suit and thus, question of passing an injunction order with respect to FDRs/FD accounts (Annexure P-2 colly), (Annexure P-6 colly) which are not subject matter of the suit is absolutely against law.



16. Keeping in view the abovesaid facts and circumstances, this Court is of the opinion that the impugned order dated 03.01.2025 being absolutely illegal, deserves to be set aside and is accordingly, set aside and the present revision petition being meritorious, deserves to be allowed and is accordingly allowed. It is clarified that since as per the policy of the bank which has been reproduced hereinabove and is not disputed on behalf of the Bank (respondent No.3/defendant No.7) and also in view of the fact that there is no order restraining the bank and also the fact that initial FDRs (Annexure P-2 colly) were of "Either or Survivor" and subsequent FDRs (Annexure P-6 colly) are in the sole name of the petitioner, thus, it would be open to respondent No.3-bank to release the amount with respect to the FDRs (Annexure P-6 colly) (Annexure P-2 colly) in favour of the petitioner, in accordance with the policy of the bank.

17. It is however made clear that the observations made in the present order are for the purpose of deciding the present revision petition in which challenge is to the order dated 03.01.2025 and would not be construed as a final expression of opinion on the merits of the main suit or on the application under Order 39 Rules 1 and 2 CPC which would be decided independently, after taking into consideration the pleadings of the parties and the arguments raised on behalf of all the parties, in accordance with law.

18. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid judgment.

09.07.2025

Pawan

Whether speaking/reasoned:-

**(VIKAS BAHL)
JUDGE**

Yes/No

Whether reportable:-

Yes/No