

**PLJ 2012 Lahore 234**

**Present: Muhammad Ameer Bhatti, J.**

**MUHAMMAD HASHIM BHATTI--Petitioner**

**versus**

**PAKISTAN RAILWAYS through its Chairman Railway Headquarter Office, Lahore and others--  
Respondents**

C.R. No. 4068 of 2010, decided on 18.10.2011.

Civil Procedure Code, 1908 (V of 1908)--

---O. XXXIX, Rr. 1 & 2--Refusal to grant restrained order--Process for taking over possession was completed--Non-compliance of issuing restrained order--Validity--Petition had become infructuous and further proceedings in that behalf will be an exercise in futility inasmuch as relief sought through instant civil revision could not be granted to petitioner for having already lost possession viz a viz locus standi regarding disputed accommodation--Petition was dismissed. [P. 236] A

Mr. Muhammad Arshad Virk, Advocate for Petitioner.

M/s. Irfan Qadir Malik and Muhammad Younis Kiyani, Advocates for Respondents.

Date of hearing: 18.10.2011.

Order

The petitioner has challenged the order dated 06.04.2010 passed by the learned Civil Judge, Lahore whereby he refused to grant the restraint order on an application under Order XXXIX, Rule 1 & 2 CPC, against which, appeal was also dismissed by the learned Additional District Judge vide order dated 10.12.2010, hence this revision petition.

2. The petitioner has filed this C.R. in this Court on 22.12.2010 and this Court through an order of even date in C.M.1-C/2010, passed the following order:

"Notice for the said date. In the meanwhile, the petitioner shall not be dispossessed from his present accommodation. This order unless specifically extended on the next date of hearing shall cease to be Operative."

3. The learned counsel for the petitioner contends that he has been dispossessed even in the presence of the order of this Court and in consequence thereof, Criminal Original No. 9-C/2011 filed by the petitioner is also pending adjudication.

4. On the other hand, learned counsel for the respondents has not only filed report and parawise comments in this civil revision but also filed the reply in the criminal original wherein they took the stand that before issuing the restraint order dated 22.12.2010 by this Court, the respondents had already taken over the possession of the disputed quarter after completing the legal formalities and in respect thereto, a

notice dated 15.12.2010 was issued to the present petitioner and for non-compliance of this notice, process for taking over the possession through Railway Magistrate, Pakistan Railway and SHO Pakistan Railway was completed on 20.12.2010. When this situation was confronted to the learned counsel for the petitioner, he agreed that the respondent has taken over the possession forcibly.

5. In view of the above, this petition has become infructuous and further proceedings in this behalf will be an exercise in futility inasmuch as the relief sought through this C.R. cannot be granted to the petitioner for having already lost the possession viz-a-viz locus standi regarding the disputed accommodation. Be that as it may, without touching the merits of the case, this petition is dismissed.

(R.A.) Petition dismissed