

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

(243)

CR No.137 of 2015 (O&M)

Decided on: May 1, 2015.

Meena Chaudhary Sharma and others

.... Petitioners

Versus

M/s Super Tract Fast Pvt. Ltd. and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Hirein Sharma, Advocate,
for the petitioners.

Mr. R.S. Malik, Advocate,
for respondents No.1/1 to 1/4 and 11.

Mr. Rohit Arya, AAG, Haryana.

Ms. Supriya Garg, Advocate,
for HUDA.

M.M.S. BEDI, J (ORAL)

The application under Order 39 Rules 1 and 2 CPC filed by the plaintiffs-petitioners to restrain the defendants-respondents from changing the nature of the land owned by the petitioners has been dismissed by the Courts below.

The grievance of the petitioners is that they are carrying out operation of chemical industry in the area in dispute and that on account of residential colonies being raised in the vicinity, their right to livelihood would be affected. The application for interim injunction has been dismissed by the Courts below on the ground that the plaintiffs-petitioners do not have any locus standi and that no irreparable loss would apparently be caused to the plaintiffs-petitioners in case interim injunction is not

granted, the defendants-respondent State authorities having assured that whenever unauthorized construction is raised, the same is demolished or removed in accordance with law.

The petitioners claim that in view of the specific pleadings and the likelihood of irreparable loss being caused to the petitioners, their application for injunction should have been allowed. Counsel for the petitioners has placed reliance on judgment in **Arya Vidya Mandir School Mandi Dabwali Vs. Dr. Ram Sarup Agnihotri 1990 (2) CLJ 485** in support of his contentions that after there is likelihood of raising of constructions in the neighbourhood of the plaintiffs against the bye-law, the plaintiff would have a cause of action to claim injunction.

I have heard learned counsel for the petitioners as well as learned counsel for the respondents and carefully gone through the pleadings of the parties and considered the contentions of learned counsel for the petitioners.

The petitioners on the basis of general allegations without impleading specifically the persons who are casting the cloud on the right of the plaintiffs have approached the Court for injunction. The specific instances of unauthorised construction have not been given in the plaint.

In view of the assurances of the official respondents that as and when unauthorized constructions is raised suitable action in accordance with law is taken for demolishing of the same and after going through the pleadings and the material available on the record, I am of the considered opinion that on the basis of unwarranted apprehensions a blanket interim injunction cannot be granted.

The plaintiffs-petitioners are required to establish, prima facie, a strong case on the basis of the material which could substantiate the existence of right and infringement of the right or imminent threat to the enjoyment of the property. The petitioners will always have a right to specifically challenge the raising of construction or interference as and when the occasion arises by filing application for interim injunction. Even otherwise the suit of the plaintiffs is not in representative capacity and the same cannot be treated to be public interest litigation.

No ground is made out for interference in the orders passed by the Courts below.

Dismissed.

Nothing said in this order will prejudice the rights of the plaintiffs or the defendants at the time of final decision of the matter.

(M.M.S. BEDI)
JUDGE

May 1, 2015
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