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

CR No.2218 of 2015

Date of decision: March 30, 2015

Prem Singh and another

.....Petitioners

Versus

Didar Singh (since deceased) through his legal
heir and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Rajinder Goyal, Advocate
for the petitioner.

SABINA, J

Petitioners have filed this petition challenging the order dated 07.01.2015/14.01.2015, whereby application moved by the petitioners under Order 7 Rule 11 of Code of Civil Procedure, 1908 ('CPC' for short), was dismissed.

I have heard learned counsel for the petitioners and have gone through the record available on the file carefully.

Petitioner No.1 had earlier filed suit for joint possession against respondents No.1 to 3. In the said suit, defendants alongwith their written statement also filed counter claim claiming themselves to be in exclusive possession of the suit land and it was further prayed that the petitioner No.1 be restrained from interfering in the peaceful possession of respondents No.1 to 3 and from alienating, transferring or otherwise encumbering the suit land. The suit filed by the petitioner No.1 was decreed, whereas the counter claim filed by respondents No.1 to 3, was rejected. Thereafter, respondents

No.1 to 3 filed the present suit for permanent injunction that petitioners be restrained from digging earth or laying down any underground pipeline in the suit land. During the pendency of the suit, petitioners moved an application under Order 7 Rule 11 CPC. Vide impugned order, the said application was rightly dismissed by the trial Court as by way of the present suit, respondents No.1 to 3 have sought a decree for permanent injunction that petitioners be restrained from digging earth or laying down any underground pipeline in the suit land. The cause of action, in the present case is different than the earlier counter claim filed by respondents No.1 to 3. It is a matter of evidence as to whether the pipelines had already been laid before the filing of the suit or they were yet to be laid when the suit was filed by respondents No.1 to 3. At this stage, by placing reliance on order passed on an application under Order 39 Rule 2A CPC dated 28.05.2014, it would not be appropriate to hold that the pipelines had already been laid before filing of the suit as at that stage, trial Court was dealing with the matter as to whether status quo order had been violated or not by the petitioners.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

March 30, 2015

m.singh