

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 3454 of 2015
Date of Decision: 19.5.2015.**

Tarsem Singh

.....Petitioner

Versus

Harcharan Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Mahesh Gupta, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition under Article 227 of Constitution of India challenging the order dated 23.3.2015.

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

Petitioner has filed the suit for permanent injunction. Along with the suit, petitioner moved an application for temporary injunction. The Trial Court vide order dated 3.7.2014 held as under:-

“For the reasons aforesaid, the instant application is allowed partly and the defendant is restrained from raising construction on any superior/frontal portion of suit property such as to change the existing position of the suit property till final disposal of the present case except in

due course of law.”

Aggrieved against the said order, respondent filed an appeal. The Appellate Court vide impugned order dated 23.3.2015, modified the order passed by the Trial Court to the extent that the respondent-defendant was restrained from raising construction in the suit property except *khasra* No. 59//9/1. The learned Appellate Court while modifying the order passed by the Trial Court has considered that the respondent-defendant was in exclusive possession of *khasra* No. 59//9/1 (3-8). Out of the said land, 2 *bighas* 8 *biswas* was *chahi* land and on the remaining 1 *bigha* of land, respondent had constructed his house. In fact, the said *khasra* number had been sold by the petitioner to the respondent and possession had been handed over to the respondent. It has further been noticed by the Appellate Court that the construction was already in existence at the spot.

In these circumstances, the learned Appellate Court rightly held that since the respondent was in exclusive possession of *khasra* No. 59//9/1 (3-8), he can use the said *khasra* number in the manner he liked. So far as the other suit property is concerned, respondent was restrained from raising construction on the same.

Hence, the impugned order calls for no interference.

Dismissed.

However, anything observed above will have no bearing on the merits of the case.

**(SABINA)
JUDGE**

May 19, 2015
Gurpreet