

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

CR No. 3660 of 2013 (O&M)

Date of decision : 10.7.2015

Prem Pal Singh

.. Petitioner

versus

Pawan Bajaj and others

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. R. K. Handa, Advocate, for the petitioner.

Mr. Sumeet Mahajan, Senior Advocate with
Mr. Amit Kohar, Advocate, for respondent nos. 1. to 3.

Rajesh Bindal, J.

Learned counsel for the petitioner submitted that the petitioner has filed application for amendment of the plaint seeking to raise the plea regarding common passage being there for use by the petitioner and vendors to respondent nos. 1 to 3. The same has not been decided by the learned Court below for the last about two years. He further submitted that as the plea regarding passage was not there initially in the suit filed, the same could not be considered by the learned Court below. Hence, after the decision of application for amendment of the suit is allowed, the petitioner may be given liberty to file a fresh application for interim injunction.

The stand of learned counsel for respondent nos. 1 to 3 is that the learned Court below has rightly considered the prayer for interim stay made by the petitioner. For the first time the plea was raised regarding the property being joint. On one part of the disputed portion, wall has been constructed in the year 2012. The petitioner has approach road to his land from other sides.

After hearing learned counsel for the parties and without opining on the merit of controversy, the present petition can be disposed of with a direction to the learned Court below to dispose of the application for amendment of the plaint filed by the petitioner within a period of three

months from the next date of hearing fixed before the Court below. In case the amendment application is allowed, the petitioner shall be at liberty to file fresh application seeking interim injunction.

Ordered accordingly.

10.7.2015
vs

(Rajesh Bindal)
Judge