

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

**CR No.4033 of 2014
Date of decision: 25.08.2015**

Krishan Kant Sharma

... Petitioner

Vs.

Khusbhakt Rai Jain and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Ramesh Sharma, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

Challenge in the present petition is to the order dated 19.07.2012 and 15.03.2014, whereby, the trial Court allowed the application moved by the plaintiff/respondents under Order 39 Rule 1 and 2 CPC read with Section 151 CPC and appeal filed by the petitioner-defendant has been dismissed and the petitioner-defendant has been restrained from raising further construction during the pendency of the suit.

Mr. Ramesh Sharma, learned counsel appearing on behalf of the petitioner submits that both the Courts below have committed illegality and perversity in allowing the application and dismissing the appeal, as the plaintiffs have concealed the material facts from the Court because as per the sale deed relied and

produced by the plaintiffs in the present suit, they have purchased the property in the year 1998-99, whereas, father of the defendant purchased the property in the grain market, marked as ABCD under dispute, in the year 1963 and, therefore, the petitioner-defendant was/is in the peaceful use and occupation of the same. He further submits that the Courts below have not appreciated that their main access to the property purchased by them towards southern side, as well as, eastern side from the main roads.

I have heard learned counsel for the petitioner and appraised the paper book.

Both the Courts below have found that the plaintiffs had filed suit for injunction restraining the petitioner-defendant from raising construction over the disputed property marked as 'ABCD', as per site plan on the ground that the said construction would reduce the passage at the back gate of house, whereas, the property situated in the grain market, the petitioner-defendant has no right, title or interest to raise construction. The averment made in the suit that father of the defendant had purchased the property in the year 1963, has not been supported by any sale deed and in the absence of said documents, in my view, respondent-plaintiffs had prima facie, balance of convenience for seeking interim injunction.

Keeping in view the aforesaid observations, no fault can be found with the finding rendered as there is no illegality and perversity in the impugned orders and the same cannot be said to be

passed without jurisdiction.

Accordingly, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

August 25, 2015
savita