

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

**CR No.4086 of 2014 (O&M)
Date of decision: 28.01.2015**

Naresh Kumar and others

....Petitioners

Versus

Yogesh Kumar and another

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Rajbir Singh, Advocate for the petitioners.

Mr. Tejinder Pal Singh, Advocate for the respondents.

Rakesh Kumar Jain, J. (Oral)

The present revision petition has arisen from the orders of both the Courts below whereby an application filed by the plaintiffs for temporary injunction has been declined.

In brief, the disputes in this case is as to whether the respondents have right to open the shutter/gate on the wall marked 'ABCD' towards the side of the appellant?

Counsel for the petitioners has argued that the respondents have stepped into the shoes of Suresh Kumar who has been restrained by this Court to open any door or window or ventilator in the wall marked 'ABCD' when **RSA No.3640 of 2002 titled as Suraj Parkash Ghai Vs. Suresh Kumar and another,** was decided

on 28.03.2006.

The Courts below, dismissed the application filed by the petitioners under Order 39 Rules 1 and 2 on the ground that the said order was passed by this Court against Suraj Parkash Ghai whose family has given an affidavit regarding 'no objection' if the gate is allowed to be opened in the wall marked 'ABCD' towards their side.

Counsel for the petitioners has submitted that there was a partition of the property amongst the family of Suraj Parkash Ghai and they have sold their respective share. It is thus submitted that the family of Suraj Parkash Ghai has left with no interest in the property in dispute therefore, their affidavit should not come in their way for the purpose of granting injunction.

On the other hand, learned counsel for the respondents has submitted that the family of Suraj Parkash Ghai is still residing in the same area.

After arguing for some time, both the learned counsel for the parties made a request that instead of deciding this revision petition on merits, the trial Court may be directed to expedite the trial and decide the suit itself within a stipulated time.

Counsel for the petitioners has further submitted that the case is now fixed for evidence of the plaintiff and they would not take more than three effective opportunities to lead their entire evidence. Similarly counsel for the respondents has also submitted that he would also not ask for granting more than three effective opportunities to lead their entire evidence and the suit for permanent injunction can be

decided at the earliest.

In view, thereof, the present petition is disposed of directing to the respondents to maintain status quo with regard to the opening of shutter which has been put on the wall marked 'ABCD'. It would not be opened till the suit is decided on merits by the trial Court. However, the trial Court is directed to decide the case as early as possible preferably within a period of six months for the date of passing of this order by giving short adjournments to both the parties to the suit who have assured the Court that they would co-operate in the early disposal of the suit.

Disposed of.

January 28, 2015
Manoj Bhutani

(Rakesh Kumar Jain)
Judge