

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 4428 of 2015

Date of Decision: 16.07.2015

Smt. Satyawati and another

.....Petitioners

Vs.

Pankaj Sharma and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Munish Kumar Garg, Advocate,
for the petitioners.

SABINA, J.

Petitioners has filed this petition challenging the order dated 29.05.2015.

Learned counsel for the petitioners has submitted that the petitioners are the owners of plot No. 75. Petitioners are raising construction only qua the area which has been allotted to them bearing plot No. 75. In fact the owner of plot No. 77 had raised construction over more area than allotted to him. As a result of this, HUDA had offered an alternate plot to the plaintiffs.

In the present case, respondents No. 1 and 2 have filed suit for permanent injunction. Along with suit, they moved an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908. The trial Court vide order dated 25.05.2015 dismissed the application for temporary injunction. However, the

Appellate Court in appeal allowed the application moved by

respondents No. 1 and 2 under Order 39 Rule 1 and 2, CPC, vide the impugned order dated 29.05.2015. The defendants No. 1 to 5 have been restrained from raising any sort of construction over the plot bearing No. 74.

Admittedly, the plaintiffs are owners of plot No. 74 whereas the petitioners are owners of plot No. 75. Petitioners were also offered an alternate plot as the owner of plot No. 77 had raised construction over more area than allotted to them. Plaintiffs were also offered an alternate plot in lieu of their plot No. 74. Be that as it may, merely because the owner of plot No. 77 has raised construction over more area than allotted to him, petitioners cannot be permitted to encroach upon the area forming part of plot No. 74.

The learned Appellate Court rightly came to the conclusion that the plaintiffs had *prima facie* case and balance of convenience in their favour and consequently, rightly restrained the petitioners from raising construction over the land forming part of plot No. 74.

Hence, no ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

July 16, 2015
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