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

CR No.4536 of 2015

Date of decision: July 22, 2015

Baljinder Kumar Mantro and another

.....Petitioners

Versus

Rubal Mantro and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Maninder Arora, Advocate
for the petitioners.

SABINA, J

Petitioners have filed this petition challenging the order dated 26.05.2015, whereby, application moved by respondent No.1 for temporary injunction, was allowed.

Learned counsel for the petitioners has submitted that the application moved by the respondent No.1 for temporary injunction was liable to be dismissed as respondent No.1 was not the owner of the premises in question.

Respondent No.1 has filed suit for declaration challenging the order dated 01.10.2012 passed by defendant No.2- Assistant Estate Officer directing him to demolish the construction raised by him and for permanent injunction. Alongwith the suit, an application for temporary injunction was filed. The said application was dismissed by the trial Court vide order dated 03.04.2015. In a appeal filed by respondent No.1, the order passed by the trial Court was set aside and the application moved by the petitioners for temporary injunction was allowed. Hence, the present petition.

The property in question is a residential house.

Respondent No.1 is the nephew of the petitioners. Initially, petitioners were not impleaded as a party to the suit, but later, on an application moved by them, they were impleaded as defendants in the suit. The suit property was initially owned by Harsukh Rai Mantro. The case of the plaintiff is that Harsukh Rai Mantro had executed a registered Will dated 12.12.2001 in his favour and he was the owner of the premises in question. Petitioners, on the other hand, have denied the execution of the Will in favour of the plaintiff by their father. Parties are yet to lead their evidence in support of their respective pleas. Construction has already been raised by the plaintiff. In case, the same is ordered to be demolished during the pendency of the suit, respondent No.1 will suffer an irreparable loss. At this stage, prima-facie, respondent No.1 is the owner of the premises in question on the basis of Will dated 12.12.2001. It has been noticed by the Appellate Court that respondent No.1 has already submitted a revised plan to the competent authority. In these circumstances, the learned Appellate Court rightly restrained defendants No.1 and 2 from demolishing the construction raised by the respondent No.1.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

July 22, 2015
mahavir