

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

Civil Revision No.6005 of 2014

Date of decision:21.04.2015

Sangeeta wife of Shri Rakesh Sharma son of Shri Ganga Ram,
resident of Village Panhera Khurd, Tehsil Ballabgarh, District
Faridabad.

... Petitioner

versus

Manoj son of late Shri Om Parkash son of Shri Ram Swarup son of
Shri Bhulli, resident of Village Panhera Khurd, Tehsil Ballabgarh,
District Faridabad, and others.

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Shiv Kumar, Advocate,
 for the petitioner.

Mr. R.S. Hooda, Advocate,
for respondent No.6

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. In a suit by the plaintiff for partition and injunction of plaintiff's 1/3rd share, the court had originally issued an order of status quo against the defendant from in any manner altering or modifying the possession with reference to the property. The plaintiff complained of disobedience of the order when the

defendant was erecting some constructions and the court had appointed a Local Commissioner to inspect the property. A report of the Local Commissioner had been filed and objections of parties had also been taken on record.

2. The court verbally acceded to the plea made by the defendant that he should have permission to reconstruct during the pendency of proceedings since the construction was dilapidated. The court passed such an order without disposing of the injunction application or disposing of the application for alleged disobedience of the order of status quo. The plaintiff is aggrieved person by the order and hence in revision before this court.

3. I would find that the procedure adopted by the court below was not correct. If the court was allowing for a construction or repairs to be carried out, it must be on a consideration of the plaintiff's case of whether he has a prima facie case or not and whether the act of the defendant will cause irreparable loss and hardship or not. If any activity of the defendant cannot transgress on the plaintiff's right to a share in the property, the court would have been justified in passing the order that it did. Without entering upon the merits of the claim of the plaintiff, the court allowed for constructions to come and posted the case for consideration of injunction application to a future date. It was putting the cart before the horse. The disposal of the injunction petition could have

contained permissions or directions of what the defendant may do with the property, but the court could not have merely acceded to the oral request of the defendant keeping the injunction application pending without a full-fledged consideration.

4. The impugned order passed is set aside and the civil revision is disposed of. The court shall consider the injunction application and consider also the defendant's request for effecting repairs or reconstructions and pass suitable orders, preferably within a period of 8 weeks from the date of receipt of copy of this order.

(K.KANNAN)
JUDGE

21.04.2015
sanjeev