

250.

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

Civil Revision No.7893 of 2014 (O&M)

Date of decision: 19.11.2015

Shiv Lal (since deceased) through his LRs Petitioners

versus

Mohan Lal and another Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

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Present: Mr. Anil Chawla, Advocate,
for the petitioners.

Mr. A.P.S. Sandhu, Advocate,
for the respondents.

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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.

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K.Kannan, J. (Oral)

1. The respondents' only plea is that in view of the fact that the roof of revision petitioner's shop having completely demolished, he should have the roof replaced only in order that he reaches his own shop at the first floor room which is used as his house. The counsel for the petitioners argues that the respondent/defendant cannot be permitted to put up any roof over the plaintiff's shop even for creating passage for the demolished state of the roof was already observed in the earlier suit between the same parties and the court

that allowed for a passage did not make provision for any construction of the roof of the defendant herein. If it is an admitted fact that the defendant can reach his room at the first floor only through roof's portion of the plaintiff's shops, if there would exist no roof, it would become impossible to reach his own room. Any temporary arrangement by the use of planks to reach could hardly be a justification for retention of status quo. I find the situation so dangerous that the defendant shall not be fettered in any way from constructing only the roof for user of the same as passage to his room at the first floor. Be it hereby ordered that there shall be no construction, apart from the roof over the plaintiff's shop and the manner of how the cost incurred would be taken will be dealt with in the suit or in an independent proceeding.

2. I find the civil revision itself as not bona fide and it is on a dubious plea that the roof had fallen even at the time when the previous suit was pending and the same status must continue and the defendant, who has been granted the right of way, will exercise such a right of reaching his own room in the same precarious fashion as he has been exercising the right by placing wooden planks in lieu of roof.

3. The interim orders in any civil court which are preventive in nature shall be normally for preservation of status quo. If any party seeks to modify the status quo by construction, the

courts shall, under normal circumstances, be reluctant to allow for any modification. Exceptions are always possible where the preservation of status quo would cause serious prejudice and, in this case, I am convinced the prejudice is so serious that there could be a danger to life for a person to reach the first floor without a roof over the shop which alone can provide a safe passage to reach the defendant's room at the first floor. These observations are made only on the basis of arguments made by the respective counsel and the rights of parties will abide by the final disposal in suit. The plaintiffs shall cause no obstruction for laying a roof over their own shop if they choose not to undertake such an exercise and the defendant will be entitled to carry such obstruction without any form of construction by the plaintiffs. The defendants will not put up any construction over the roofs and will not use the roof over the plaintiff's shop other than as a passage to reach his room at the first floor.

4. The revision petition is disposed of with the above observations.

(K.KANNAN)
JUDGE

19.11.2015
sanjeev