

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

CR No.8447 of 2014

Date of decision : 10.08.2015

Kailash

...Petitioner

Versus

Lalit and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Munish Gupta, Advocate for the petitioner.

Mr. Gorakh Nath, Advocate for respondent Nos.1 to 3.

AMIT RAWAL, J. (Oral)

Challenge in the present petition is to the order dated 21.08.2014 (Annexure P-6) passed by Civil Judge (Sr. Division), Narnaul, allowing the application under Order 39 Rule 1 & 2 read with Section 151 CPC of the respondents/plaintiffs wherein status-quo order vis-a-vis the construction raised by the petitioner/defendant has been passed and as well as the order dated 31.10.2014 (Annexure P-8), whereby appeal filed by the petitioner/defendant, against the aforementioned order, has been dismissed.

Mr. Munish Gupta, learned counsel appearing on behalf of petitioner submits that though the suit filed by the respondents/plaintiffs

was for mandatory and permanent injunction from interfering into the joint possession but the stand taken in the written statement that property had been partitioned in the year 1998 and the petitioner was raising construction of room & kitchen & bathroom which according to him exclusively fallen to his share.

Mr. Gorakh Nath, learned counsel appearing on behalf of plaintiffs/respondent Nos.1 to 3 submits that order passed by the Courts below is fair, legal and justified. Since the property is joint, the petitioner/defendant cannot be permitted to raise the construction over the property until and unless the property is proved to have been partitioned.

I have heard learned counsel for the parties.

Shorn of the facts and submission noticed above and as well as on perusal of the photographs (Annexure P-9), whereby petitioner/defendant is stated to have undertaken the construction for setting up one room, kitchen and bathroom.

Mr. Munish Gupta, learned counsel for the petitioner submits that construction had started prior to the passing of the status-quo order and the construction raised will be at his cost and peril. In case, it is found that property is joint, he shall abide by the outcome of the said decision.

In view of the statement made by learned counsel for the petitioner/defendant, orders dated 21.08.2014 & 31.10.2014 are set aside and it is observed that construction if any raised by the petitioner shall be at his costs and risks. The petitioner shall abide the outcome of the decision of the suit.

It is made clear that the petitioner is permitted to complete

other formalities vis-a-vis the construction already raised but he shall not raise any further construction or not make an attempt to encroach area, portion in possession of the respondent-plaintiff.

With the aforementioned directions, petition stands disposed of.

10.08.2015

pawan

**(AMIT RAWAL)
JUDGE**