

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.5357 of 2013 (O&M)

Date of decision: 21.07.2015

Surjit Singh and others

..... Appellants

versus

Barjinder Singh and others

..... Respondents

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. Gulzar Mohd., Advocate for the appellants

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?

2. To be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest?

Kuldeep Singh, J. (Oral)

Impugned in the present appeal is the order dated 30.4.2013, passed by the learned Additional District Judge, Ludhiana, vide which application of the appellants under Order 39 Rule 2A CPC for initiating proceedings for disobedience of order dated 22.2.2001 was dismissed.

Facts of the case relevant for the purpose of disposal of the present appeal are that present appellants filed an appeal against order passed by the lower Court. Along with the appeal, an application under Order 39 Rules 1 and 2 CPC for grant of ad-interim injunction was filed. The then learned Additional District Judge, vide order dated 22.2.2001, ordered the parties to maintain status quo regarding the construction.

The allegations levelled by the appellants in the

application are that the respondents, in connivance with each other, disobeyed the injunction order and then raised construction over the property by erecting pillars and also raised the boundary wall to the extent of 6' above and also raised a tin shed measuring 12'-3" x 10'-2" with a door. It was further disclosed that way back in the year 1992, an application for disobedience of order was filed before the lower Court as the respondents had even then committed the breach of injunction order. The application further shows that many such contempt petitions were filed.

I have heard learned counsel for the appellants and have also carefully gone the file.

The perusal of the impugned order shows that there is no illegality of infirmity in the impugned order. In the application, no date was mentioned when the breach of injunction order was made. Respondents are liable only if the construction is raised after 22.2.2001. It also comes out that respondent Nos.7 to 11 were not party to the appeal. Therefore, they could not have been sued for breach of the injunction order. Before the lower Court, appellants had also summoned Ravi Kumar, Civil Engineer and photographer who had inspected the building and prepared the report and site plan. In cross – examination, the witness had admitted that the walls are eight years old. The order further shows that as many as four similar applications were filed before the lower Court but the same were got dismissed in default. The witness of the appellant had further admitted that pillars mentioned in the application were raised in the year 1992 i.e. much before the passing of status quo order.

Therefore, the construction alleged cannot be said to have been raised after the passing of the status quo order. Keeping in view the fact that earlier also four applications were filed before the lower Court, stating that the injunction order has been breached, it was for the appellant to point out that the present breach was committed after the passing of order dated 22.2.2001. The trial Court has observed that as per statement of AW2 walls were raised eight years ago and that the construction relates to year 1996 and was not raised after the passing of the order.

It being so, there is no illegality of infirmity in the impugned order. Present appeal is accordingly dismissed.

21.07.2015
gk

(Kuldip Singh)
Judge