

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

**CR No. 1855 of 2015 (O&M)
Date of decision: 02.02.2016**

Baljit Kaur and another

... Petitioners

versus

Jagroop Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Nitin Kant Setia, Advocate for the petitioners.

Mr. Amandeep Singh Rai, Advocate
for respondent Nos.1 to 4.

K.Kannan, J. (ORAL)

The only intervention which I think is possible now is that ordering arrest or demolishing a construction of what the defendants claim to have done would cause very serious hardship when the defendants' own appeal against the order of injunction is still pending consideration in the Appellate Court. I vacate the order of arrest and police protection only out of exigency that an adjudication at an Appellate court is meaningful and does not merely become a paper exercise when the petitioners are otherwise damnified by giving effect to the order.

The order of injunction would remain suspended but I shall not allow for any modification of the existing state of affairs and cannot also allow for the defendant to put up any further construction across the passage delineated as C D and claimed by the plaintiffs as main *raasta* to go towards the East of the plaintiffs' property and which is North of the defendants' property. The plaintiffs are at liberty to approach the Court again if they are successful and the Court will secure *status quo ante* as on the date of institution of suit.

The Appellate Court will also examine the objections taken by the defendants about the Commissioner's plan and if need be, call for clarification from the very same Commissioner or may reissue warrants to gather any detail to which any clarity is necessary.

By these observations, I do not render the Commissioner's report already filed as irrelevant, but, the observations are taking note of objections given by the petitioners-defendants that the issue of commission was made ex-parte and the Commissioner report was also prepared without notice of inspection by the Commissioner to him.

The civil revision petition is disposed of with above observations.

(K.KANNAN)
JUDGE

02.02.2016
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