

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

CR No.3347 of 2016 (O&M)

Date of decision : 26.09.2016

Rattan Singh and another

...Petitioners

Versus

Gram Panchayat Village Ghandauli and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Tribhuwan Singla, Advocate for
Mr. Rajesh Punj, Advocate for petitioners.

AMIT RAWAL, J. (Oral)

Mr. Tribhuwan Singla, Advocate for Mr. Rajesh Punj, counsel for the petitioner(s)-plaintiff(s) urges this Court that suit for injunction at the instance of the plaintiff was filed restraining the respondent-Gram Panchayat from raising the gali on khasra No.39, land measuring 15 kanals 19 marlas as some of the land has shown as gair mumkin. He submits that trial Court had granted the injunction but the lower Appellate Court has dismissed the ad-interim application relying upon the order of the Collector, whereby it has been held that land is shamlat. He submits that petitioner was not party in the order of Collector dated 04.04.2014 annexed with the revision petition vide CM No.11539-CII of 2016 (Annexure P-14).

The petitioner-plaintiff has been able to make out the case within the provisions of Order 39 Rules 1 and 2 regarding injunction. The raising of gali definitely would be through the constructed house of the plaintiff. No doubt suit had been filed in the year 2014. There was the interim stay before the trial Court and urges this Court for setting aside of the order under challenge and to restore the order of the trial Court.

I have heard learned counsel for the parties and appraised the paper book.

On going through the contents, it is evident that there is no averments as to whether construction of the gali is through the house of the petitioner. The only averment is that the petitioner-plaintiff is joint owner of the property which has not yet been partitioned and Gram Panchayat was not the owner. Once the pleadings with regard to the construction of the house are conspicuously absent and particularly when the khasra No.39 is big chunk of land which is yet to be determined in the trial Court whether gali having a particular dimension can be erected from any other place other than the house of the petitioner.

In my view, the apprehension of the petitioner is totally premature providing the street would be for the convenience of the inhabitants of the village. The development of the Village is always respected and honoured. In my view, the petitioner-plaintiff has not been able to prove the averments made in the plaint as well as documents attached are not falling within the parameters of Order 39 Rules 1 and 2 and rightly so, Courts below had reversed the findings.

I do not intend to differ with the findings under challenge.

Accordingly, present revision petition is dismissed.

Liberty is granted to the petitioner-plaintiff to expeditiously lead the evidence so that the trial may conclude at the earliest.

26.09.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No