

Civil Revision No.4119 of 2016 (O&M)

{ 1 }

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R.No.4119 of 2016 (O&M)

Date of Decision: July 12, 2016

Smt.Poonam Sharma

...Petitioner

Versus

Smt.Poonam Goyal & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers 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?

Present: Mr.Rajesh Lamba, Advocate,
for the petitioner.

Mr.Amit Jain, Advocate with
Mr.Ashish Gupta, Advocate,
for the caveator-respondents.

AMIT RAWAL, J. (Oral)

Petitioner-plaintiff is aggrieved of the impugned order, whereby the interim injunction sought in the statutory appeal filed against the judgment and decree dated 21.5.2016, has been declined.

Mr.Rajesh Lamba, learned counsel for the petitioner-plaintiff submits that Civil Suit bearing No.19 dated 8.1.2015 seeking a

decree for permanent injunction restraining the defendants from raising

any sort of construction over the specific and valuable portion of the land bearing khewat/khata No.312/349, rect.No.39, Killa No.22 (7-7), 20 (8-19), 19 (9-0), 12/2 (3-10), total measuring 27 kanals 16 marla to the extent of 12 kanal 16 marla situated within the revenue estate of village Jai Singhpur, Tehsil Nuh, District Mewat, was filed. He further submits that during the pendency of the suit, there was an ad interim injunction and even alternative relief of mandatory injunction was also sought that in case the defendants succeeds in raising any sort of construction, they be directed to demolish the same. The trial Court dismissed the suit. However, appeal was filed. The Lower Appellate Court, vide order dated 1.6.2016 restrained the respondent-defendants from raising any sort of construction over the suit property without getting the property partitioned by metes and bounds. He further submits that the partition proceedings are already pending before the Assistant Collector IInd Grade, Nuh, District Mewat. The respondents are changing the nature of the suit property without getting the same partitioned and if they are permitted to raise the construction, it shall cause prejudice to the petitioner qua the enjoyment of the valuable piece of land and, thus, urges this Court for setting-aside of the impugned order with an appropriate direction to the Lower Appellate Court to expedite the disposal of the appeal and till then status-quo as granted on 20.6.2016 by

this Court be continued.

Mr.Amit Jain Advocate along with Mr.Ashish Gupta Advocate, appearing on behalf of the respondents submits that the respondents have been allotted petrol pump by the Essar and 90% construction has been done. He, on instruction from Mr.Rajeev Goyal, husband of respondent No.1, who is present in Court, submits that his client may be allowed to continue with the construction and he shall demolish the same and shall not claim any compensation in case the petitioner-plaintiff succeeds in the suit and shall also be bound by the partition proceedings. His client is not averse to appropriate direction for expeditious disposal of the appeal and as well as the partition proceedings.

I have heard the learned counsel for the parties and appraised the paper book and of the view that since the supply of the petrol/diesel is essential requirement and most of the construction has already been undertaken, it would not be appropriate to restrain the respondents from raising any construction, particularly in view of the statement of the learned counsel for the respondents, on instructions from his client. In case the petitioner-plaintiff succeeds in the suit, the respondent-defendants shall demolish the construction in case the area is falling within the share of the petitioner-plaintiff and shall not claim any

compensation, in essence the construction, if any, shall be at his peril. The respondents shall also be bound by the outcome of the partition proceedings.

While exercising the supervisory powers under Article 227 of the Constitution of India, I deem it appropriate to direct the Assistant Collector IInd Grade, Nuh, District Mewat to expedite the decision of the partition proceedings, in essence the respondents shall put in appearance in the partition proceedings and shall not take unnecessary adjournments in completing the proceedings. The Assistant Collector shall decide the matter within a period of six months. The Lower Appellate Court is also directed to decide the appeal within a period of two months from the date of receipt of certified copy of this order.

Revision petition stands disposed of with the
aforementioned directions.

July 12, 2016
ramesh

(AMIT RAWAL)
JUDGE