

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.6576 of 2015

Date of Decision.15.02.2016

Col. Parminder Singh

.....Petitioner

Vs.

Balwinder Singh and others

.....Respondents

Present: Mr. Kiran Kumar, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. The plaintiff has sought for injunction against the defendant from using the staircase which runs at the portion behind shop. The defendant is adjoining owner. He has put up a construction at the first floor and wants the use as stair case which is at the backyard. The contention of the plaintiff was that the staircase falls within the area of 200 sq. fts. which he had purchased. The defendant's contention was that all the shops three in number and denoted as A, B and C in the plan filed by the plaintiff belonged to the same person and he has constructed the staircase for the use of the portion at the first floor and he being a purchaser of the portion demarcated as 'C' has an access to the same staircase. The Court below has observed rather inartistically that the plaintiff's claim to the property is admitted but he cannot have injunction against the defendant from reaching to the roof top.

2. At the interlocutory stage, the most important feature that

has to be examined is the ingredient of not merely the prima facie case but also extreme hardship. Use of staircase by the defendant to go to the first floor of a new construction which he has made cannot cause any obstruction for the plaintiff, for admittedly the plaintiff himself has no construction at the first floor. The staircase cannot be used for any other purpose than reaching to the first floor and if he has himself not put up any construction but the defendant has, I do not find any serious prejudice will be caused now.

3. The issue of whether the defendant can use the staircase will be matter that can be considered at the time of trial but as of now, I do not believe that there is a prejudice that can be caused to the plaintiff by the defendant using the staircase at the first floor. I decline to make any interference. The revision petition is dismissed.

(K. KANNAN)
JUDGE

February 15, 2016
Pankaj*