

FAO No. 6256 of 2016

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

FAO No. 6256 of 2016

Date of Decision: November 03, 2016

Anu Tiwari

...Appellant

Versus

Urmila Devi & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. H.N.S. Gill, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (Oral):

Appellant has approached this Court assailing the order dated 06.04.2016 passed by the Additional District Judge, Amritsar, whereby, an application under Order 39 Rule 2-A of the Code of Civil Procedure (hereinafter referred to as 'CPC) read with Section 151 of CPC, for initiating contempt of Court proceedings against the respondents has been dismissed.

It is the contention of the learned counsel for the appellant that an order dated 17.07.2015 (Annexure A-1) was passed by the Additional District Judge, Amritsar, restraining the respondents from changing the nature of the property in question till the disposal of the case on merits. He contends that after the passing of the said order and having been served of the same upon the respondents, they have proceeded to change the nature of the property. Referring to the application under Order 39 rule 2-A of CPC preferred by the appellant, para 6 whereof, it has been stated that the

respondents have demolished and altered the walls of House No.7, bearing khasra No.2143/667, situated at Street No.1, Rakba Wadali Urban inside Committee Chheharta, Kartar Nagar, Chheharta, Sub-Division & District Amritsar and have also raised the level of the flooring. The doors and windows of the property are being altered and the main gate of the house is also changed after passing of the order. He contends that apart from this, the evidence led by the appellant in the form of her own statement as AW-1 and that of three other witnesses namely, Kuldeep Tiwari (AW-2), Maninder Kaur (AW-3) and Ranjit Kaur (AW-4) who have taken the photographs in their mobiles and sent them to the appellant clearly indicate the change in the nature of the property resulting in violation of the order dated 17.07.2015 passed by the Additional District Judge, Amritsar. Counsel further refers to the report of the Local Commissioner who had been appointed by the Court and had submitted his report on 30.10.2015 (Annexure A-9). He, on the basis of this, submits that the impugned order cannot sustain and deserves to be set aside.

Having considered the submissions made by the counsel for the appellant and having gone through the records of the case as also the impugned order dated 06.04.2016 passed by the Additional District Judge, Amritsar, the contentions as raised cannot be accepted in the light of the fact that no evidence has been brought on record which would indicate the original situation of the house as it existed at the time of passing of the order dated 17.07.2015 which could be compared to the alleged changes which are stated to have been made by the respondents. The photographs

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which have been placed on record have not been proved as per the provisions contained under the Indian Evidence Act, 1872 and therefore, have rightly been ignored by the Court below. The conclusion as drawn by the Court below in its impugned order is based upon proper appreciation of the pleadings and the evidence brought on record, which cannot be faulted with.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

It is clarified that any observation made by this Court in this order shall not have any bearing upon the merits of the suit pending between the parties.

November 03, 2016

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No