

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.**

**Civil Revision No.4343 of 2015**

**Date of Decision:-30.03.2017**

**Freedom Park Life Apartment Owners Association (Regd.).**

.....Petitioner.

Versus

**Sumit Verma & Ors.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH**

Present:- None for the Petitioner.

Mr. Kul Bhushan Sharma, Advocate for respondent nos.1 & 2.

Mr. Hemant Saini, Advocate for respondent nos.3 & 4.

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**JASWANT SINGH, J.(ORAL)**

Plaintiff/Petitioner is aggrieved against the order dated 07.02.2015 passed by learned ADJ, Gurgaon who has dismissed the application under Order 39 Rules 1 & 2 CPC filed by it and consequently has set aside the order dated 7.2.2015 passed by Civil Judge(Jr. Divn.), Gurgaon who had restrained defendant no.1 & 2 from taking over the possession of Shop in question.

It is evident from the impugned order passed by learned ADJ that CWP No.22243 of 2012 was preferred by the plaintiff before this Court whereby it had challenged the action of defendants no.1 & 2 for converting the stilt and basement area into shops and gymnasium. Although, initially

stay was granted in favour of the petitioner in the aforementioned writ

petition wherein the respondents therein were restrained from taking third party interest in the shops in question, however, vide order dated 25.11.2014 the aforementioned writ petition was admitted and previous order was modified to the effect that any further sale of any common area to any third party shall be subject to the decision of writ petition. The operative party of the order dated 25.11.2014 reads as under:-

*“ In modification of the interim orders passed from time to time, it is ordered that further sale of any common area to the residents shall be subject to the decision of the writ petition. The building lay out plan, if necessity to the modified future, shall be revised in term of Policy dated 28.01.2013. ”*

It is stated that the aforementioned writ petition is still pending adjudication.

By observing aforementioned facts, the learned ADJ had rightly set aside the order dated 07.02.2015 passed by learned trial Court because in effect the petitioner is claiming same relief from two different courts by invoking two different remedies. In my view the maintainability of the suit itself is under a cloud. However, it has to be adjudicated by the trial Court.

In view of the aforementioned circumstances no ground is made out to interfere in the impugned order which is based upon correct appreciation of the facts of the case. Resultantly the present civil revision is hereby dismissed.

**( JASWANT SINGH )**  
**JUDGE**

**March 30, 2017**  
Vinay

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| <b><i>Whether speaking/reasoned</i></b> | <b><i>Yes/No</i></b> |
| <b><i>Whether Reportable</i></b>        | <b><i>Yes/No</i></b> |