

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

290

CR-4677-2016(O&M)

Date of Decision:11.08.2017

Himmat Singh and another

.....Petitioners

Versus

Hoshiyar Singh

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

**Present: Mr.Sunil Saharan, Advocate,
for Mr.Parmod Parmar, Advocate,
for the petitioners.**

**Mr.Anil Kumar Gahlawat, Advocate,
for the respondent.**

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the order dated 15.07.2016 passed by the learned trial court, whereby interim order was granted in favour of the plaintiff, permitting him to carry out repairs in the wall, which was undisputedly found in dilapidated condition, defendants have approached this Court by way of instant revision petition, filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

The bare perusal of the impugned order passed by the learned trial court, particularly para 5 thereof, will make it crystal clear that dilapidated condition of the wall in question was not disputed. Once that is so, the learned trial court was well within its jurisdiction to grant permission

to the plaintiff to carry out the repairs in the dilapidated wall. Neither the impugned order has caused any kind of prejudice to the petitioners nor it is going to adversely affect the nature of the suit property. Having said that, this Court feels no hesitation to conclude that the learned trial court committed no error of law, while passing the impugned order and the same deserves to be upheld.

The cogent reasons recorded by the learned trial court in para 5 of the impugned order, which deserves to be noticed here, read as under:-

“After hearing the arguments of both the counsels and also on perusal of report of LC, it arose that it is nowhere disputed by the defendants/respondents that the wall/roof in question is not in bad condition or is not dilapidated. The dispute in the present suit is regarding the ownership of the said wall but the bad condition of the said wall is not disputed. This is the interim stage and at this stage this Court cannot determine the ownership or the right of any of the party with regard the said wall and in the light of the fact that the bad condition of the wall/roof is an admitted fact, this court has no hesitation in allowing the present application, with the mention that allowance of this application does not determine the right of the plaintiff over the said wall/roof.”

During the course of hearing, learned counsel for the petitioners could not point out any patent illegality or perversity in the impugned order passed by the learned trial court, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India.

No other argument was raised.

Considering the peculiar facts and circumstances of the case

noted above, coupled with the reasons aforementioned, this Court is of the

considered view that the present revision petition is misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, instant revision petition stands dismissed, however, with no order as to costs.

August 11, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No