

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

136

CR No.7742 of 2017 (O & M)
Date of Decision:06.12.2017

Jagdish and others

...Petitioners

Versus

Manjeet and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Virat Amarnath, Advocate
for the petitioners.

Mr. Shilak Hooda, Advocate
for the respondents.

ANIL KSHETARPAL, J.(Oral)

Defendants-petitioners are in revision petition against the order passed by the Courts below restraining them from raising any further construction.

Plaintiffs had filed a suit for possession of land measuring 2 kanals and 8 marlas claiming themselves to be owner of the property. On the other hand, the defendants filed a written statement and pleaded that there was an oral exchange between the grand-father of the plaintiffs and pursuant thereto the aforesaid exchange, defendants came in possession of the property. It was further pleaded that the entire area of 2 kanals and 8 marlas is covered by construction and one of the defendants, who had an old building, demolished the portion of the same was re-constructing it when the suit was filed.

Learned counsel for the petitioners has drawn attention of the

Court to Annexure P-8/A, a lay out plan, which shows that the entire area

2 kanals and 8 marlas is under construction. He submits that now the petitioner is only wanting to complete construction over portion marked with words D-1, D-2, C-1 and C-2; respectively.

Learned counsel for the petitioners has further brought an attention of the Court to photograph annexed at page 69, which shows that double storied structure has already been completed, however, the house is incomplete on account of stay.

Still further, this small portion, which is marked with words D-1, D-2, C-1 and C-2 is only about 1/10th of the entire area measuring 2 kanals and 8 marlas. Remaining land is already under construction.

Taking into consideration the facts and circumstances of the case, in the considered opinion of this Court, the order passed by the Courts below are not correct. Petitioners are already in possession of the entire area of 2 kanals and 8 marlas, which is not disputed by the plaintiffs. It is the allegation of the defendants-petitioners that they are using it for their residential purpose.

As referred to above, one of the petitioners had demolished portion of the old construction and was re-constructing the same when the suit was filed. Double storied structure has already been constructed by the petitioners.

Taking into consideration these facts, in the considered opinion of this Court, no useful purpose would be served if the defendants-petitioners are not allowed to finish construction of their house. However, defendants-petitioners would not be entitled to claim any equity or damages on account of the construction so raised.

modified. Petitioners would be allowed to complete their construction, however, they shall not be entitled to claim any equity or compensation in case the decision of the case goes against them.

Hence, this revision petition is allowed.

06.12.2017
sheetal

(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No