

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

**CR No.1875 of 2019 (O&M)
Date of Decision : 12.04.2019**

Umed Singh

..... Petitioner

Versus

M/s Balaji Screening Grinding Unit, Atela and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Vijay Kumar Sheoran, Advocate
for the petitioner.

SUDIP AHLUWALIA, J. (ORAL)

CM No.7537-CII of 2019

Prayer in this application is for placing on record a copy of note given along with the Site Plan as Annexure P-8.

For the reasons mentioned in the application, the applicant/petitioner is permitted to place on record a copy of the note given along with the Site Plan as Annexure P-8.

CM stands disposed off.

CR No.1875 of 2019

1. This revision is directed against the impugned order dated 02.03.2019 passed by the Ld. Additional Civil Judge (Junior Division), Charkhi Dadri in a Civil Suit filed on behalf of the petitioner whereby while not granting injunction in relation to the petitioner's application under Order 39 Rule 1 and 2 read with Section 151 CPC (Annexure P-6), the Ld. Court below had directed filing of reply to the injunction application apart from the written statement in the main Suit as also

service upon the unserved defendant Nos.2 to 4 for 18.04.2019. It was also mentioned in the impugned order that *“Arguments heard. The contentions of parties regarding nature of possession and nature of suit land cannot be ascertained at this stage. From the photographs placed on record, it appears that defendant has already raised some construction. Defendant has also collected building material. Keeping in view the peculiar facts and circumstances, if defendant No.1 raises any construction (at his own risk), the same shall be subject to the decision of injunction application on merits and ultimate decision of the suit. In the interest of justice, it is further ordered that defendant No.1 shall not block the access of other co-owners from the main passage to their land. It is hereby made clear that the order shall have no bearings on the merits of the case.*

2. The net result, therefore, is that regular hearing on the pending application is yet to be done and to that extent, the petitioner would appear to have prematurely rushed to a superior Forum when in fact his pending application has not yet been disposed off.

3. At the same time, this Court also is of the view that regarding the petitioner's grievance of alleged construction being raised by defendant No.1-respondent, at the initial stage, the Ld. Court below without having access to the defendants' detailed reply had justifiably mentioned that such proposed construction would be subject to the decision of the injunction application on merits and ultimate decision of the suit.

4. This Court is, therefore, not inclined to interfere with the

aforesaid order particularly when a final decision on the pending application has not yet been pronounced by the Ld. Trial Court.

5. The revision is, therefore, dismissed as being without any substantive merits. The Ld. Court below is, however, directed to dispose off the injunction application on the next date already fixed or as soon thereafter as possible, in the event of a reply to the same being actually filed on behalf of the contesting defendants-respondents.

(SUDIP AHLUWALIA)
JUDGE

April 12, 2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No