

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

CR-5276-2019

Date of decision: 30.08.2019

Partap Singh

...Petitioner

Versus

Vinod Kumar and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Gaurav Gupta, Advocate for the petitioner.

H.S. MADAAN, J.

This revision petition is directed against order dated 31.07.2019, passed by Addl. District Judge, Palwal, vide which such Court, while accepting the appeal had set aside the order passed by Civil Judge (Jr. Divn.) Palwal, accepting the application under Order 39 Rule 1 & 2 CPC, moved by plaintiff Partap Singh with a prayer for restraining the defendants Vinod Kumar and others from raising any further construction over the suit property and from making any alienation thereof till final outcome of the case.

Briefly stated facts of the case are that plaintiff Partap Singh had brought a suit for grant of partition and permanent injunction against the defendants on the averments that the suit property having construction situated within the revenue estate of Village Jatola, Tehsil & District Palwal is still joint between the parties, in which, the plaintiff has got 3/19 share, whereas, other defendants are also co-sharers. Defendant

Nos.1 & 2 had also constructed their houses in the suit land but they demolished such houses and threatened to raise construction over valuable/front portion of the suit land, that too over area more than their shares without getting the joint property partitioned by metes and bounds not listening to the request of the plaintiff to desist from doing so. Feeling aggrieved, the plaintiff brought the suit in question. Along with the suit, he moved an application for grant of ad-interim injunction. On notice, the defendants appeared and filed written statement, contesting the suit as well as filing reply to the application for grant of ad-interim injunction. After hearing arguments, learned trial Court, vide order dated 04.08.2018, accepted the application under Order 39 Rule 1 & 2 CPC and in the process, restrained the defendants from raising any further construction over the suit property and from making alienation out of it, till final decision of the suit. Vinod Kumar-defendant No.1 and his brother Ved Parkash-defendant No.2 felt aggrieved by that order and they had filed an appeal before District Judge, Palwal, which was assigned to Addl. District Judge, Palwal. Learned Addl. District Judge, Palwal accepted the appeal, vide impugned order, in the process, dismissing the application under Order 39 Rule 1 & 2 CPC.

Feeling aggrieved, the plaintiff has approached this Court, by way of filing the present revision petition.

I have heard learned counsel for the revisionist besides going through the record and I find that there is absolutely no ground to accept the revision petition and set aside the impugned order passed by Addl.

District Judge, Palwal. The order passed by Addl. District Judge, Palwal is well reasoned, wherein, it has been observed that the trial Court while allowing the application for grant of ad-interim injunction had committed a grave illegality, since an important plea of admission by father of the plaintiff, namely Mai Chand to the effect that the suit property had already been partitioned between the co-sharers by metes and bounds, was ignored by the trial Court and further, the photographs placed on file by counsel for defendant Nos.1 & 2 reflected that full-fledged old construction in the form of double storey houses was existing at the spot and in the civil suit No.5 of 2008 titled Smt. Brahampal Vs. Harpali and others, there was a categorical admission that the suit property had already been partitioned between the co-sharers by metes and bounds and that the plaintiff having stepped into shoes of his father Mai Chand, is bound by admission so made. Under the circumstances, the order in question does not suffer from any illegality or infirmity, much less visible on the face of it. The order is certainly not perverse, arbitrary or in violation of settled legal yardstick. Finding no merit in the revision petition, the same stands dismissed.

30.08.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No