

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 9224 of 2018 (O&M)
Date of decision: 10.5.2019

Om Parkash and others

.. Petitioners

v.

Municipal Corporation, Gurugram and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Mukul Aggarwal, Advocate for the petitioners.

Mr. Lokesh Sinhal, Advocate for respondent No. 1.

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AVNEESH JHINGAN, J. (Oral)

Aggrieved of the order dated 26.9.2018 passed by the Civil Judge (Junior Division), Gurugram (hereinafter described as 'Civil Court') dismissing the application filed under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 (for short, 'CPC') and order dated 8.12.2018 passed by the Additional District Judge, Gurugram dismissing the appeal filed against order dated 26.9.2018, the present revision petition has been filed.

The facts in brief are that a suit for permanent injunction was filed by the petitioners-plaintiffs (hereinafter described as 'the petitioners') for restraining respondent No. 1-defendant No. 1 (hereinafter described as 'respondent No. 1') from constructing the building of Community Centre in Sector 52, Gurugram on the site which was earlier reserved for Police Station. The basic ground for challenge was that the change made is in

violation of Section 79 of the Haryana Urban Development Authority Act, 1977 and final development plan. The jurisdiction of the authority itself is challenged to change the plan. Alongwith the suit, an application under Order 39 Rules 1 and 2 read with Section 151 CPC was filed. The application was dismissed by the Civil Court vide order dated 26.9.2018. The said order was challenged in appeal. The appeal was dismissed by Additional District Judge, Gurugram vide order dated 8.12.2018, hence the present petition.

Notice of motion was issued for 25.2.2019.

Learned counsel for the petitioners states that respondent No. 1 is carrying on the construction and there would be irreparable loss as the suit itself would be rendered infructuous with the efflux of time. He further states that the petitioners shall complete the evidence before 15.7.2019 and no unnecessary adjournment shall be sought.

Learned counsel for respondent No. 1 states that the construction has just reached the plinth level of main building.

In order to balance the equity and to safeguard the wastage of public money, the present revision petition is disposed of with the direction to the Civil Court to decide the civil suit on or before 31.8.2019. The petitioners shall be bound by the statement made in this Court. The petitioners may move an application for preponement before the Civil Court which shall be decided accordingly. Respondent No. 1 shall make an endeavour to conclude its evidence without unnecessary delay.

It is, however, clarified that in the meantime the construction at the site shall continue upto the stage where in case of adverse decision against respondent No. 1, the building can be altered into the police station.

The revision petition is disposed of in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

10.5.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No