

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

CR-2341-2018 (O&M)

Date of decision : 09.01.2020

Tanu Chauhan and others

...Petitioners

Versus

Rishi Pal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Aggarwal, Sr. Advocate with
Mr. Kartik Gupta, Advocate for the petitioners alongwith
Mr. Varun Chauhan, petitioner No.3.

Mr. Arun Jain, Sr. Advocate with
Mr. Amit Jain, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

Defendants-petitioners are in the revision against the order passed by the First Appellate Court restraining the defendants-petitioners from completing the building of a fuel station and running it while reversing the order passed by the learned trial Court refusing to grant injunction.

Learned First Appellate Court has held that the defendants-petitioners are entitled to use the property being lessee from co-sharers, however, they shall not be entitled to use the same for constructing/running a fuel station.

The plaintiffs had claimed that they are co-sharers in a large chunk of land alongwith lessors of the defendants and, therefore, the lease deed executed by the lessors who are also the co-sharers, is not binding on their rights.

Both the Courts, on appreciation of material available on record,

have observed that all the co-sharers have been selling specific area/plot identified by khasra numbers and the construction has also been raised on specific area by each co-sharers. It is also not in dispute that the lessors i.e. defendant Nos.2 to 4 are the co-sharers and their share is more than the land leased out. The lessees-petitioners have been given on lease a piece of plot for constructing/running a fuel station of Indian Oil Corporation. Thus, the order passed by the First Appellate Court restraining the defendants-petitioners to construct and complete the fuel station, is seriously causing prejudice to their rights.

At the most, the case of the plaintiffs is that they are co-sharers in the alleged joint land, partition proceedings whereof are stated to be pending.

Learned counsel for the petitioners has stated that ultimately if in partition proceedings, the land in dispute falls in the share of the plaintiffs, they shall at their own cost remove the construction and restore the land to its original position.

Keeping in view the aforesaid facts, the equity demands that the tenants-petitioners should be permitted to complete the building of the fuel station building whereof is almost complete and permitted to run fuel station till final determination by the Courts. Hence, order passed by the First Appellate Court is set aside.

With the aforesaid observations, the present revision petition is allowed.

09.01.2020*Pawan***(ANIL KSHETARPAL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**