

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR No.1874 of 2020 (O&M)
Date of decision: 16.12.2020

Rajender and Anr.

.....Petitioners

versus

Rajpal and Ors.

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. R.A. Sheoran, Advocate
for the petitioners.

Mr. Sumit Sangwan, Advocate
for the respondents.

*(the aforesaid presence is being recorded through video
conferencing since the proceedings are being conducted in Virtual Court).*

GIRISH AGNIHOTRI, J. (Oral)

Petitioners – Rajender and Anil Kumar have jointly filed the present petition *inter alia* with a prayer to set aside the orders dated 24.01.2020 (Annexure P-2) passed by trial Court whereby their application under Order 39 Rule 1 & 2 of Code of Civil Procedure, 1908 was dismissed and the order dated 13.03.2020 (Annexure P-3) passed by Appellate Court whereby appeal of the petitioner was dismissed.

CM No.10632-CII-2020 has been filed *inter alia* with a prayer to place on record the application filed by the petitioners/plaintiffs under order 39 Rule 1 & 2 of Code of Civil Procedure, 1908, before the trial Court as Annexure P-8.

Application is allowed, as prayed for.

A perusal of the application (Annexure P-8) would show that it is the case of the petitioner that the land in dispute was situated in Village Jhojju Kalan, Tehsil and District Charkhi Dadri. It is submitted that the land was jointly under the ownership of plaintiffs and defendants No.1 to 5. It is further submitted that all the share holders got the joint land partitioned in the year 1983. Various other detailed averments have been made and it has then been submitted that defendants had no title or right of ownership/possession of more than 1 kanal 8 Marla land in Khasra No.78//20/3 and had no concern with the service station of the defendant.

In this background, prayer was made to issue order of injunction that defendants be restrained from interfering in ownership and possession of the plaintiffs.

This application, however, was dismissed by the trial Court vide order dated 24.01.2020 (Annexure P-2). The said order was also upheld vide order dated 13.03.2020 (Annexure P-3) by the Appellate Court.

At this stage, learned counsel for the respondents points out that a perusal of the application would clearly show that there is no prayer in the application for stay of construction. He further submits that in pursuance to order dated 02.07.2020, fee has not been deposited for appointment of Local Commissioner.

In view of peculiar facts as noticed above, the present petition is disposed of liberty to the to move a fresh application for the relief now made by oral prayer for interim stay i.e.

restraining the respondents from raising construction on the land in dispute.

Accordingly, the present petition stands disposed of as such.

(GIRISH AGNIHOTRI)
JUDGE

16.12.2020

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