

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(119)

FAO-2900-2020

Date of Decision : 06.10.2020

S. JASWINDER SINGH AHLUWALIA AND ANR

....Appellants

Versus

NIRVAIL SINGH AND ORS

.....Respondents

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Nipun Sharma, Advocate,
for the appellants.

Harsimran Singh Sethi, J. (Oral)

Present appeal has been filed against the order dated 13.08.2020 passed by the learned Additional District Judge, Jalandhar, by which, the application under Order 39 Rule 1 and 2 read with Section 151 CPC preferred by the petitioners (appellants herein) alongwith the appeal filed against the dismissal of their suit, has been rejected.

Learned counsel for the appellants argues that the dismissal of the said application is contrary to the facts and the prayer of the appellants herein in the said application, is only to maintain the status quo qua the disputed property as the respondents have started demolishing the structure on the disputed property, as the said act will cause prejudice to the appellants in case, the appeal filed by the appellants against the dismissal of their suit, is allowed in their favour at a later stage.

Once, the Competent Court of Law has already dismissed the suit filed by the appellants and the title of the property in favour of the respondents has already been upheld, while deciding the application filed under Order 39 Rules 1 and 2 of the CPC alongwith the appeal, the Court was required to see the balance of convenience. In the present case, the balance of convenience is in the favour of the respondents as the title and the possession of the suit property has already been held in their favour. Owner of property cannot be restrained from raising construction without any valid justification, hence, no interference is called for by this Court with the impugned order dated 13.08.2020 passed by learned Additional District Judge, Jalandhar.

The apprehension of the appellants is that they will suffer irreparable loss in case their appeal is decided in their favour at a later stage. In case, the appellants succeed in their appeal, the lower appellate court is competent to pass appropriate order for redressing the grievance of the appellants at that stage and the respondents are raising construction at their own risk and responsibility despite knowledge of pendency of appeal preferred by the appellants against the order dismissing their suit. Once, the respondents have been held to be in possession of the property legally, no directions can be issued for maintaining the status quo merely on the ground that the appellants have filed the appeal against the order dismissing their suit.

Learned counsel for the appellants has conceded before this Court that as per the judgment passed in their suit dated 21.02.2019 (Annexure-A/1), the title and the possession of the private respondents has been held to be valid being bona fide purchasers. That being so, no direction

can be issued at this stage to maintain status quo qua the suit property.

No ground is made out to intervene in the impugned order and the appeal is hereby dismissed.

October 06, 2020
kanchan/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No