

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

Sr. No.107

Civil Revision No.2509 of 2020

DATE OF DECISION: November 16, 2020

AMARJEET TEWATIA AND OTHERS

..PETITIONERS

VERSUS

ANITA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Jagjot Singh, Advocate, for the petitioners.

SUDHIR MITTAL, J. (ORAL)

The petitioners have filed this revision petition challenging order dated 18.09.2020 (Annexure P-1) passed by the learned Additional District Judge, Faridabad, whereby appeal against order dated 10.08.2020 (Annexure P-2) passed by the Civil Judge (Jr. Divn.) Faridabad allowing the application under Order 39 Rules 1 & 2 CPC, has been dismissed.

The petitioners allege that they are owners in possession of total land measuring 4325 Sq. Yds. situate in Rect. No.51, Killa No.4(7-3) of Khewat No.265/248 min Khatauni No.327. The respondent and her husband are owners in possession of a plot measuring 108.33 Sq. Yds. situate in Killa No.7 and since they allegedly encroached into the land of the petitioners, a suit for injunction was filed for restraining them from interfering in the possession of the petitioners. In the said suit, the respondent and her husband were temporarily enjoined vide order dated 19.03.2020. The said order has become final inter parties.

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Aggrieved, the respondent filed her own suit alleging encroachment by the petitioners. The Civil Court directed demarcation to be carried out whereupon demarcation report dated 10.07.2020 was submitted. In the said report, it has been stated that the respondent has constructed a boundary wall within Killa No.7, although, the area of her plot has been mentioned as 110 Sq. Yds. After receipt of the demarcation report, the trial Court restrained the petitioners from interfering in the possession of the respondent. Appeal thereagainst has also been dismissed.

Learned counsel for the petitioners has argued that admittedly, the respondent is owner in possession of a plot measuring 108.33 Sq. Yds. and the report of the Local Commissioner mentions that she is in possession of 110 Sq. Yds. Thus, she has obviously encroached upon the land of the petitioners and the Courts below have erred in passing of order of temporary injunction in her favour.

I am not in a position to accept the submissions of learned counsel for the petitioners as the case of the petitioners is that their land is situated in Killa No.4. So long as there is no finding of encroachment into the said killa number, the interests of the petitioners are not adversely affected. Both parties have been restrained from encroaching upon each others land and thus, no error has been committed.

The revision petition is accordingly dismissed.

November 16, 2020

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes

Whether Reportable

No