

CR-2368 of 2020 (O&amp;M)

Date of Decision: 12.02.2021.

Goverdhan Lal

...Petitioner

Versus

Daulat Ram &amp;ors.

....Respondents

**CORAM: HON'BLE MR JUSTICE ARUN MONGA**Present : Mr. Amar Vivek Aggarwal, Advocate  
For the petitioner.Mr. G.S. Sandhu, Advocate  
For the respondents.**(Presence marked through video conference).****ARUN MONGA, J. (ORAL)**

1. Instant petition has been filed by the plaintiff-petitioner against the order dated 23.07.2020 passed by the learned Trial Court dismissing the application under Order 39 Rules 1 and 2 filed by him along with the suit for injunction. He has also challenged the order dated 01.10.2020 passed by the Appellate Court below dismissing his appeal filed against the order dated 23.07.2020, *ibid*.

2. After hearing the arguments at some length, in order to give an amicable *quietus* to the present proceedings, both the learned counsel are *ad idem* that, during pendency of the civil suit, neither of the parties shall raise any construction on the area marked as OPEF as per site plan contained at Annexure P-15 appended with the instant petition.

3. At this stage, learned counsel for respondents submits that since there is an ambiguity with regard to the portion BFEA in the site plan, which has been marked as “intended encroachment”, the petitioner

should,therefore, not carry out any construction on the said area marked as BFEA.

4. On the asking of Court, learned counsel for the petitioner fairly and appreciably states that, his client shall not raise any construction on the said area BFEA as well, subject ofcourse, to his right to move an appropriate application before the trial Court at later stage, in case he intends to carry out any construction thereupon during pendency of the suit.

5. In the circumstances, instant revision petition is disposed of with modification in the impugned orders passed by the Courts below in terms of statements made by learned counsels, *ibid*. The parties to remain bound with the statements made by their respective counsel during pendency of the suit.

6. It is made clear that aforesaid arrangement has been made with able assistance of learned counsel for the parties, only for the purpose of disposal of application under Order 39 Rules 1 and 2 CPC and the same is subject to final outcome of the suit and shall not, in any manner, be construed as an expression on merits of the case.

7. Pending application(s), if any, stands disposed of.

**February 12, 2021**  
Jiten

**(ARUN MONGA)**  
**JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No