

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

CR-372-2021 (O&M)

Date of decision: 16.12.2022

Dharamvir Singh and others

....Petitioners

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.M.L.Sharma, Advocate for the petitioners
Mr.J.S.Pannu, AAG, Haryana and
Mr. Harsh Vardhan Shehrawat, AAG, Haryana
Mr. Som Nath Saini, Advocate for
Mr. Arvind Seth, Advocate for respondent no.2

ANIL KSHETARPAL, J (Oral)

The petitioners assail the concurrent orders passed by the trial court as well as the First Appellate Court under Order XXXIX Rule 1 &2 of the Code of Civil Procedure, 1908, for grant of a temporary injunction. The plaintiffs filed a suit for grant of decree of permanent injunction restraining the defendants from interfering in their peaceful possession of the suit property. The defendants are the State of Haryana and the Estate Officer, Haryana Shehri Vikas Pradhikaran (hereinafter referred to as 'HSVP'). Both the courts have found that the land comprised in khasra no.712 is a part of the passage, whereas, the land comprised in khasra no.832 is in the ownership of HSVP.

Heard the learned counsel representing the parties and with their able assistance perused the paperbook.

Learned counsel representing the petitioners submits that the

plaintiffs are not in possession of the land comprised in khasra no.832, however, the land comprised in khasra no.712 belongs to Shamlat Pana Jogian. Hence, he submits that the State has no right to interfere in the plaintiffs'/petitioners' possession.

As already noticed, the land comprised in khasra no.712 is recorded to be Gair Mumkin Rasta Saream i.e a passage. In such circumstances, the courts have correctly held that the plaintiffs have failed to make out a prima facie case and show that the balance of convenience lies in their favour and further irreparable loss would be caused to them if the temporary injunction is not granted. Hence, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

16.12.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE