

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

Sr. No.121

CR-702-2022 (O&M)

Date of decision : 03.03.2022

Chhittar

..... Petitioner

VERSUS

Kishori and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Manish Mehta, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner is plaintiff No.1. He has filed a suit for injunction in which an application under Order 39 Rules 1 and 2 CPC has also been filed. The application has been dismissed by the trial Court and miscellaneous appeal against the order of the trial Court has also been dismissed.

Learned counsel for the petitioner has argued that partition proceedings are pending. The suit land has since been acquired and the defendants are encroaching upon more valuable part of it. Thus, the Courts below were in error in rejecting the application for grant of *ad interim* injunction.

The application for *ad interim* injunction has been filed for the purpose of restraining the defendants from raising construction on the suit property. No relief regarding alleged encroachment has been sought. The Courts below have held that in a family partition conducted in the year 1974, the parties are in possession of their respective shares and have constructed their houses thereupon. That being so, there is no question of restraining the defendants from raising construction as it is not the case of the plaintiffs that

any fresh construction is being raised. In any case, any construction raised during the pendency of partition of joint land is subject to final partition.

No error has been pointed out in the aforementioned findings. No injunction has been sought restraining the defendants from encroaching upon the land over which the plaintiffs are in possession.

Thus, the revision petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

03.03.2022
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No