

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

CR-2707-2019 (O&M)

Date of decision: 15.12.2022

Rajwant Kaur

....Petitioner

Versus

Jaspal Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Bhupinder Gupta, Advocate for the petitioner

Mr. Gurmail Singh Duhan, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

The petitioner before this Court is defendant no.2 in a suit filed by respondent no.1, for grant of decree of permanent injunction. The trial court dismissed the plaintiff's application for grant of temporary injunction, whereas, the First Appellate Court has reversed the same on the ground that both the parties are co-sharers. Undisputedly, the petitioner has purchased the property from the plaintiff's brother. A plot, identified not only by its dimensions, but also by the properties located on all the four directions, was sold to her by way of a registered sale deed. The property is part of a residential area. It is the case of the defendant that the property stood partitioned long back and the defendant has already constructed a boundary wall. The plaintiff prays that the purchaser be restrained from making any construction upon the plot.

The First Appellate Court has adopted a completely erroneous approach while dealing with this matter. The petitioner is a

vendee for valuable consideration. If the petitioner constructs a building, that would be a value addition and will not result in depreciating its value. The plaintiff is yet to prove that the property is joint and he is entitled to a share in the plot in possession of the vendee. In such circumstances, the First Appellate Court has erred in restraining the vendee, who has purchased the property for valuable consideration, from going ahead with the construction.

Keeping in view the aforesaid facts, the impugned order passed by the Appellate Court on 13.03.2019 is set aside and that of the trial court is upheld. Needless to observe that the petitioner shall not be entitled to any compensation for the construction, in case the property in dispute falls in the share of the plaintiff in the partition proceedings, if it is held that the property has never been partitioned.

Disposed of.

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

15.12.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE