

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 113

Civil Revision No.3649 of 2022
Date of Decision: September 15, 2022

Avneet Kaur & others

..... PETITIONER(S)

VERSUS

Mamta & another

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. G.C. Shahpuri, Advocate, for the petitioners.

. . .

Tribhuvan Dahiya, J (Oral)

This revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 05.08.2022 (Annexure P-18) passed by the trial court whereby the petitioners – plaintiffs’ application for removal of construction raised by the respondents – defendants on the plot stated to have been owned by the plaintiffs has been dismissed.

Learned counsel for the petitioners refers to order dated 13.09.2017 (Annexure P-2) passed by the trial court whereby defendants were restrained from interfering in possession of the plaintiffs over the suit property and from raising any construction on the suit property till disposal of the suit. He also refers to another statement made by the defendants’ counsel before the trial court on 27.05.2022 (Annexure P-10) to the effect

that if purchaser constructs beyond the boundary line of the plot and it is found to be a property of the plaintiffs, the construction would be removed and the expenditure of construction would not be recovered. He has also submitted that against violation of restraint order dated 13.09.2017, appropriate proceedings have already been initiated by the petitioners – plaintiffs under Order XXXIX Rule 2A CPC before the trial court.

In this background, the trial court rightly dismissed the application for removal of construction. It was filed by the petitioners – plaintiffs without invoking any provision of law. Learned counsel for the petitioners could not point out to this Court also as to under which provision of law the application was filed, and how was it maintainable. Jurisdiction of this Court under Article 227 cannot be invoked in these circumstances.

Dismissed.

(Tribhuvan Dahiya)
Judge

September 15, 2022
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No