

CR-4185-2022
Decided on : 28.09.2022

Sukhwant Singh and another Petitioners

Versus

Nirmal Singh and others Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gurcharan Dass, Advocate
for the petitioners.

Manjari Nehru Kaul, J.(Oral)

The petitioners are impugning the order dated 17.09.2022 passed by Civil Judge (Jr. Divn.) Ludhiana as well as order dated 21.09.2022 passed by District Judge, Ludhiana vide which appeal filed by the petitioners-plaintiffs has been dismissed.

Learned counsel appearing for the petitioners-plaintiffs has vehemently argued that the impugned order dated 17.09.2022 on the face of it is erroneous and has been passed without proper appreciation of the material on record. He submits that both the Courts below failed to appreciate that the petitioner is a co-owner in possession of the suit property and the respondents were raising construction upon a specific portion of the joint land to the detriment of the petitioners. It has been submitted that as per the settled law until the partition of the property is effected, every co-owner shall have the right over each and every inch of the joint land and still further one co-owner cannot change the nature of a part of the joint land as it would be prejudicial to the interest of the other co-owners. Learned counsel has further argued that the Courts below ignored the fact that

respondents No.1 to 18 were trying to take forcible possession of a portion of the land, which was in the possession of the petitioners and were trying to raise construction in order to change the nature of the suit land. He has submitted that if the respondents are not restrained from raising construction at this stage, irreparable loss would be caused to the petitioners, which would not be able to be compensated in any manner later on.

Heard learned counsel and perused the relevant material available on record.

Admittedly, application of the petitioners-plaintiffs for temporary injunction under Order 39 Rule 1 and 2 CPC is still pending adjudication before the trial Court. Therefore, as a matter of judicial propriety, this Court would desist itself from interfering with the impugned order at this stage as it could effect the outcome of the said application.

As a sequel to above, instant petition being devoid of any merit, stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

28.09.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No