

**In the High Court of Punjab and Haryana, at Chandigarh**

**Civil Revision No. 3315 of 2021**

**Date of Decision: 30.03.2022**

Bachan Chand and Others

... Petitioner(s)

Versus

Manmohan Singh and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Anil Kshetarpal.**

Present: Mr. Vishal Munjal, Advocate  
for the petitioner(s).

Mr. Munish Puri, Advocate  
for the respondents.

**Anil Kshetarpal, J.**

1. The petitioners are the plaintiffs in a suit filed by them for grant of decree of permanent injunction restraining the defendants from forcibly dispossessing the plaintiffs from the suit property or from constructing any part thereupon. Their application, under Order XXXIX Rule 1 and 2 CPC, has been dismissed by the trial Court on 30.07.2021. Their first appeal was also dismissed by the District Judge on 27.09.2021. It has come on the record that the plaintiffs have filed a previous suit by impleading the owner as a party, which was dismissed as withdrawn on 20.07.2021. Meanwhile, the plaintiffs have filed the present suit on 13.07.2021 against the representatives of the owners.

2. The plaintiffs claim to be the owners in possession of 1/3<sup>rd</sup> share in the joint land. It has also been stated that the partition proceedings are

3. The question is as to whether the Court should restrain the defendants from carrying out the construction, particularly when the plaintiffs' share is only 1/3rd. It is well settled that any construction raised by any of the party, during the pendency of the suit, shall not adversely affect the rights of the plaintiff.

4. Before an injunction is granted, it is necessary for the plaintiffs to prove that they have a *prima facie* case, the balance of convenience lies in their favour and they shall suffer an irreparable loss and injury, if the injunction is not granted.

5. In the present case, the plaintiffs have failed to satisfy the Court on these parameters. If, ultimately, the plaintiffs succeed in a partition application and some part of the constructed property falls in their share, then the authority, while passing the order of partition, will ignore the development, which had taken place during the pendency of the suit.

6. With the observations made above, the present revision petition is dismissed.

**(Anil Kshetarpal)**  
**Judge**

**March 30, 2022**

**“DK”**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No