

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

130

CWP-26285-2022
Date of Decision: 17.11.2022

NARESH KUMAR @ NARESH MALHOTRA AND ORS

... Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Vishal Aggarwal, Advocate
for the petitioners.

Mr. Saurav Verma, Addl. A.G., Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India, 1950 seeking issuance of a writ in the nature of Certiorari for setting aside the complaint dated Nil (Annexure P-9) and subsequent proceedings initiated by respondent No.2 – Deputy Commissioner, Ludhiana and marked to respondent No.3- Sub Divisional Magistrate, West, Ludhiana.

Briefly summarized, the facts of the present case are that the petitioner alongwith his co-sharer claim themselves to be the owner in possession of the property bearing No.B-II-1702/2 measuring 1340 Sq. Yards situated at Village Mahal Bhagat, near Chand Cinema, Mohalla Fatehgarh, Ludhiana by virtue of a sale deed executed in their favour, which is claimed to have not been challenged. They, thus, being owner in possession of the same, submitted an application for sanction of building plan for raising construction on the said plot, which was duly allowed. Accordingly, the petitioner deposited

the requisite fee and raised construction over the said plot. However, the private respondents, who are owners of adjacent land and have sole most of it, started troubling the petitioner in order to extract money from the petitioners and other co-sharers. Eventually, when they could not find anything from the petitioners, they file a civil suit for declaration that they are the owners in possession of the suit property and also for possession of the land alleged to have been occupied by the petitioners and other co-sharers. Alongwith the said suit, they also filed an application for injunction restraining the petitioners herein – the defendants in the civil suit from raising any construction over the land in question. The petitioners already appeared before the civil Court and have filed their written statement denying the claim. He contends that notwithstanding the pendency of the aforesaid civil suit before the Civil Court, the petitioners and the co-sharers also filed a civil suit for declaration that they are owners in possession of the suit property and claimed for grant of Permanent Injunction for restraining the defendants from interfering in their possession and from raising construction. An *ad-interim* injunction was granted to the petitioners restraining the defendants i.e. the respondents No.4 and 5 herein from interfering in the peaceful possession of the petitioners and also in the construction being raised by them. In the suit filed by the respondents No.4 and 5, the application for interim relief was declined by the civil Court. It is averred and argued by the counsel for the petitioner that the respondents, having failed in their attempt to pressurize the petitioners, thereafter, submitted a complaint before the Deputy Commissioner. The proceedings have not been initiated therein.

Being confronted with the fact that already civil disputes between the parties are pending and the petitioners would have an efficacious remedy

against any grievance to approach the civil Court, learned counsel for the petitioner seeks permission to withdraw the present writ petition so as to take recourse to the alternative remedies available to him in accordance with law.

Dismissed as withdrawn with the liberty as aforesaid.

17.11.2022
rajender

(VINOD S. BHARDWAJ)
JUDGE