

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 107

Civil Revision No.6096 of 2022 (O&M)

Date of Decision: December 21, 2022

Swaran Singh

..... PETITIONER(S)

VERSUS

Manjit Kaur

..... RESPONDENT(S)

...

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

...

PRESENT: - Mr. Vishvadeep Singh Rana, Advocate, for the petitioner.

. . .

Tribhuvan Dahiya, J (Oral)

CM No.18199-CII of 2022

Application for grant of exemption from filing certified copies of Annexure P-1 to P-8 is allowed.

Main Case

This is a revision petition under Article 227 of the Constitution of India for setting aside the trial Court order dated 06.07.2022 (Annexure P-1) granting interim injunction to the respondent-plaintiff, and the order dated 09.11.2022 (Annexure P-3) passed by the lower Appellate Court, whereby the petitioner-defendant's appeal against it, was dismissed.

2. It is apparent from the record that the respondent-plaintiff filed a suit for permanent injunction claiming that she along with her two sons have 1/12th share each over the suit land. It was joint and had not been partitioned by metes and bounds. The defendant, however, was trying to

change the nature of land and started raising construction over a particular portion abutting the main road.

3. Learned counsel for the petitioner-defendant argued that there has been an oral partition between the parties resulting a specific portion of the land coming to his share. But the said partition has not been *prima facie* established before the Courts below, nor is he in a position to point to any material on record establishing the fact. As apparent from the impugned orders, it is confirmed by way of revenue entries that both the parties jointly own the suit land along with other co-sharers. Although, the defendant claims himself to be in exclusive possession of a portion of the land where the construction is being raised by him, the fact could not be even *prima facie* established on record. Raising construction in the valuable part of the land will be detrimental to the interests of the plaintiffs as well as other co-sharers.

4. In view thereof, there is no error of law in the orders passed by the Courts below granting/affirming interim injunction in favour of the respondent-plaintiff.

5. Dismissed.

(Tribhuvan Dahiya)
Judge

December 21, 2022

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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No