

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 106

Civil Revision No.6091 of 2022

Date of Decision: December 21, 2022

Sadhna & another

..... PETITIONER(S)

VERSUS

Rajesh Tayal & others

..... RESPONDENT(S)

. . .

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

. . .

PRESENT: - Mr. Jarnail Singh Saneta, Advocate, for the petitioners.

. . .

Tribhuvan Dahiya, J (Oral)

This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 31.07.2019 (Annexure P-6) passed by the trial Court, vide which the petitioners-plaintiffs' application under Order XXXIX Rules 1 and 2 CPC seeking interim injunction was dismissed, and the order dated 07.12.2022 (Annexure P-8) passed by the lower appellate Court dismissing the appeal against the said order.

2. The plaintiffs had filed a suit for permanent injunction restraining the defendant Nos.1 and 2 from raising construction on the roof-top over a common passage of Jagdamba Market, Assandh Road, Panipat, as also for mandatory injunction directing defendant No.3, Municipal Corporation, not to approve/sanction the site plan for the same.

3. While declining the prayer for interim injunction, it has been held that the petitioners-plaintiffs were not able to show that any right of

easement existed in their favour. The defendants placed report of a building expert on record clearly mentioning that a separate passage/stair case was there for going to the roof top, which was not in a dilapidated condition. Rather, it was fit for raising construction. There was no evidence on record that the plaintiffs' shop was getting air or light from the said roof-top.

4. In view thereof, it is apparent that there is no *prima facie* case in plaintiffs' favour nor balance of convenience lies in their favour, nor is there any chance of irreparable loss or injury being caused to the them on account of the said construction being raised. Therefore, the impugned orders do not suffer from any jurisdictional error, and the power vested with the trial Court has been rightly exercised.

4. Dismissed.

(Tribhuvan Dahiya)
Judge

December 21, 2022
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No