

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

CR-7791-2019 (O&M)

Date of decision:12.12.2022

Ishwar Singh

....Petitioner

Versus

Kulwant Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jai Singh Yadav, Advocate for the petitioner
 Mr. Gulshan Nandwani, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

During the pendency of the suit for grant of decree of declaration, with a consequential relief of permanent injunction as also decree for separate possession by way of partition of the property, an application filed by the plaintiff under Order XXXIX Rule 1 &2 of the Code of Civil Procedure, 1908, to restrain the defendants from going ahead with any construction, has been dismissed. The aforesaid order has been affirmed in a miscellaneous appeal filed by the plaintiff.

Learned counsel representing the petitioner contends that the respondents have purchased the property from their vendor-Birender Singh to the extent of 134 square yards, although, he was owner only to the extent of 93 square yards.

This Court has considered the submissions. The plaintiff is yet to prove his case. It has come in evidence that the house constructed by defendant no.1 is nearing completion as only the work of plastering of the walls remains to be carried out.

Learned counsel representing the petitioner contends that if the defendant is permitted to go ahead with the construction, he will suffer irreparable loss. It may be noted here that any construction during the pendency of the suit is subject to the decision of the case and it will not create any equitable right in favour of the defendant.

With these observations, the present petition is disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

12.12.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE