

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

CR-104-2023 (O&M)

Date of Decision: 09.01.2023

Municipal Council, Zirakpur

.....Petitioner

Versus

Balwant Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Dharam Vir Sharma, Sr. Advocate
with Ms. Pooja Yadav, Advocate
for the petitioner/defendant.

ARUN MONGA, J. (ORAL)

Petition herein, under Article 227 of Constitution of India is for setting aside the impugned order dated 12.09.2022 (Annexure P-9) passed by Ld. Additional District Judge, SAS Nagar, Mohali, dismissing the petitioner's (defendant) appeal against order dated 24.05.2019 (Annexure P-8), passed by the Ld. Civil Judge (Jr. Divn.), Dera Bassi, whereby the application filed by the respondent/plaintiff under Order 39 Rules 1 and 2 CPC was accepted.

2. Civil suit is for declaration seeking consequential relief of permanent injunction.

3. I have heard learned counsel for the petitioner and gone through the case file.

4. Impugned order dated 12.09.2022 (Annexure P-9) is premised, *inter alia*, on the following reasoning:

“xxx

xxx

xxx

12. From the submissions of the learned counsel for the parties, and from the record of file, it is clear that the plaintiff challenged the notice no. 401 dated 29.11.2018 under which the defendant will demolish the property comprised in Khewat/Khatano.

235/2280 Khatoni no. 252 comprising Khasra No. 859/824/735/248 (0-2), as per jamabandi for the year of 2014-2015, situated in Village Dhakoli, Zirakpur, Tehsil DeraBassi, District SAS Nagar, (Mohali). The case of the defendant is that one demarcation was conducted by the Halqa Kannungo on 10.08.2018 as per directions of Naib Tehsildar, Zirakpur and Halqa Kannungo reported that the plaintiff has encroached upon the 4 ½ x 5 ½ Karams of land which fall under the ownership of the defendant. But that report was prepared at the back of the plaintiff. The learned trial court has rightly hold that the report should not be taken into consideration. The learned trial court has rightly restrained the defendant from demolishing the house of the plaintiff.

13. Hence, this Court is of the considered view that the learned trial Court has rightly allowed the stay application filed by the plaintiff and no ground to interfere in the impugned order is made out. Accordingly, this Court finds that there is no merit in the appeal and the same is hereby dismissed. However, it is made clear that any observations made in this order shall not have any affect on the merits of the case, which will have to be determined by the learned trial court after recording evidence of the parties. Record of trial court alongwith copy of this judgment be sent immediately and the appeal file be consigned to the record room.”

5. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction vested with this Court.

6. Moreover, demolition of the house has been rightly protected during pendency of the trial as the balance of convenience is in favour of the plaintiff. That apart, no irreparable loss will be caused to the defendant. Shoe is, in fact, on the other foot as the plaintiff will suffer irreparable loss if the house in question is demolished during pendency of the Civil suit.

7. There is no room for interference in the aforesaid valid reasons recorded by the Ld. Appellate Court as also the Ld. Trial Court, with which I am in agreement.

8. Dismissed.

(ARUN MONGA)
JUDGE

January 09, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No