

In the High Court of Punjab and Haryana at Chandigarh

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**RSA-1023-2022 (O & M)
Date of Decision: February 01, 2023**

ISHWAR

.....APPELLANT

VERSUS

PAPPU AND ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Rohit Mittal, Advocate for the appellant.

ANUPINDER SINGH GREWAL, J (ORAL)

The appellant has challenged the judgment and decree dated 16.11.2016 passed by the trial Court whereby his suit for permanent injunction has been dismissed and the judgment and decree dated 10.02.2022 whereby the appeal preferred thereagainst has been dismissed by the lower Appellate Court.

Learned counsel for the appellant submits that the respondents/defendants are carrying out construction in the suit land which will cause irreparable damage and, therefore, the suit ought to have been decreed. In support of his submission, he has relied upon the judgment of the Supreme Court in the case of **Maharwal Khewaji Trust (Regd.), Faridkot versus Baldev Dass**, bearing Civil Appeal No.6792-2004, decided on 15.10.2004.

Heard.

The appellant/plaintiff has filed a suit for permanent injunction wherein it is stated that he along with the respondents/defendants is in joint possession of the suit land. Admittedly, the suit land, which is shared jointly by the appellant/plaintiff and the defendants/respondents, has not been partitioned.

In response to a query of this Court as to what is the nature of the construction which is being carried out by the respondents, learned counsel for the appellant submits that they are constructing a tubewell and a house. However, in the suit, the nature of construction, which is being carried out by the respondents, has not been set out. It is, thus, manifest that the suit land is jointly owned by the appellant and the respondents, which has not been partitioned. The suit has rightly been dismissed by the Courts below as nothing has come on record which would indicate that the respondents are carrying out any construction which would endanger the land and cause irreparable damage.

The judgment of the Supreme Court in the case of **Maharwal Khewaji Trust (Regd.), Faridkot (supra)** is distinguishable and not applicable to the facts of the instant case as in the suit filed by the appellant/plaintiff herein, the nature of construction which is being carried out by the respondents/defendants, has not been set out. There is no material on record in the instant case to suggest that the respondents/defendants are carrying out construction which would endanger the suit property or cause irreparable damage.

Consequently, I do not find any merit in the appeal which stands dismissed.

Pending application(s), if any, shall stand disposed of accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

February 01, 2023
A.Kaundal

Whether speaking/ reasoned : Yes/No
Whether Reportable : Yes/No