

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(206)

CR No. 1356 of 2021

Date of Decision : 11.04.2023

Pyare Lal and others

...Petitioners

Versus

Tek Ram and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.N. Lohan, Advocate for the petitioners.

Mr. Sanjiv Kumar Aggarwal, Advocate with
Mr. Tejas Bansal, Advocate and
Mr. Ojas Bansal, Advocate for the respondents.

Harsimran Singh Sethi J. (Oral)

In the present civil revision petition, the challenge is to the orders dated 18.03.2021 (Annexure P-3) and 11.05.2021 (Annexure P-5) passed by the courts below on an application filed under Order 39 Rule 1 and 2 CPC by which, interim relief has been declined to the petitioners-plaintiffs.

Learned counsel for the petitioners-plaintiffs argues that concededly the property in question is in the joint ownership of the petitioners-plaintiffs as well as the respondents-defendants. Learned counsel for the petitioners-plaintiffs submits that once the property has not been partitioned, changing the nature of the suit land will cause prejudice as the respondents-defendants will try to claim the benefit of the construction

and further in case, after the partition, the property, which is in possession of the respondents-defendants, comes to the share of the petitioners-plaintiffs, the respondents-defendants will try to claim the benefit of the construction.

Learned counsel for the respondents-defendants submits that the apprehensions being raised by the petitioners-plaintiffs are totally frivolous and submits that respondents-defendants undertake that any construction, which will be done by the respondents-defendants will be within their share and no benefit of the construction will be claimed by them during the partition proceeding. Learned counsel for the respondents-defendants further submits that in case any property, which is in possession of the respondents-defendants comes to the share of the petitioners-plaintiffs after the partition attained finality, either the said construction will be demolished by the respondents-defendants themselves or they will not claim any benefit of the said construction.

Keeping in view the said stand being taken by the respondents-defendants, no prejudice is being suffered by the petitioners-plaintiffs even if the respondents-defendants raised any construction within their share.

Keeping in view the fact that as no prejudice has been shown to have been suffered by the petitioners-plaintiffs, no further orders are required to be passed in the present civil revision petition and the same is disposed of accordingly.

April 11, 2023
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No