

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

**CR No.5256 of 2022
Date of Decision: 04.01.2023**

Amarjeet Singh

.....Petitioner.

Versus

M/s Aruna Infra-Promotors Private Limited and others

.....Respondents.

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Argued by:- Mr. S.S. Nain, Advocate
for the petitioner.

MEENAKSHI I. MEHTA, J.

By way of the instant revision petition, the petitioner-plaintiff (here-in-after to be referred as 'the plaintiff') has laid challenge to the order dated 16.07.2022 (Annexure P-3) passed by learned Civil Judge (Junior Division), Shahabad (for short 'the trial Court'), whereby the application moved by him under Order 39 Rules 1 & 2 read with Section 151 CPC for seeking *ad-interim* injunction against the respondents-defendants (here-in-after to be referred as 'the defendants') to restrain them from blocking the Culvert and the Hume Pipe and thus, interrupting the prevailing natural flow of water by forcibly raising any illegal and unauthorised construction in front of the same till the decision of the Suit, has been dismissed and he has also assailed the judgment dated 10.10.2022 (Annexure P-5) handed down by learned Additional District Judge, Kurukshetra (for short 'the

Lower Appellate Court'), dismissing the appeal, as preferred by him against the said order (Annexure P-3).

2. Shorn and short of unnecessary details, the facts, culminating in the filing of the present revision petition, are that the plaintiff has filed the Civil Suit for seeking a decree for permanent injunction against the defendants, while averring that he owns the land situated on the northern side of the metalled road, as constructed by defendants No.3 to 5 to link Village Landa to National Highway No.1 and defendants No.1 and 2 have purchased the land, located on the southern side of the said road, from one Nasib Singh vide the sale deed dated 08.04.2021. The natural flow of the rainy water is from northern to southern side of this road. Defendants No.3 to 5 have constructed the Culvert and have also installed the Hume Pipe to manage the flow of the water, so as to avoid any damage to the crops of the farmers having their land/fields in the area. However, defendants No.1 and 2 intend to construct the boundary wall of their land in front of the said Culvert and Hume Pipe, illegally and unauthorisedly and it would result in the blockage in the flow of water which would further cause damage to his crops. On the self-same facts, the plaintiff moved the afore-said application and the same has been dismissed by the trial Court vide the order Annexure P-3 and the appeal filed by him against this order, has also been dismissed by the Lower Appellate Court vide the judgment Annexure P-5.

3. I have heard learned counsel for the petitioner-plaintiff, at the preliminary stage, in the instant revision petition and have also gone through the file carefully.

4. Learned counsel for the plaintiff has contended that defendants No.3 to 5 had constructed the above-mentioned Culvert and had also installed the Hume Pipe to manage the natural flow of the rainy water from northern to southern side of the said link road but defendants No.1 and 2 are raising a boundary wall around the land purchased by them, in an illegal manner and the said construction would obstruct the flow of water, resulting in the stagnation thereof in the fields of the plaintiff which would damage his crops and in these circumstances, the plaintiff is entitled to an *ad-interim* injunction to restrain the defendants from doing so but the trial Court as well as the Lower Appellate Court have erroneously declined his prayer in this regard, vide the impugned order and judgment respectively and therefore, the same are not legally sustainable and deserve to be set-aside. To buttress his contentions, he has placed reliance upon the observations as made by Hon'ble the Supreme Court in **Patneedi Rudrayya Vs. Velugubantla Venkayya and others, Civil Appeal No.2 of 1958, decided on 10.04.1961**; the Division Bench of this Court in **Registered Society, Arya Priti Nidhi Sabha, Punjab Gurudatt Bhawan, Jullundur City etc. Versus Paras Ram 1973 PLR 671** and by the Division Bench of Calcutta High Court in **Chowringhee Residency Private Limited Versus ITC Limited 2014 (22) R.C.R. (Civil) 558**.

5. However, the afore-raised contentions are devoid of any merit because though it goes undisputed between the parties that the above-said Culvert had been constructed by defendants No.3 to 5 and that the rainy water flows from northern to southern side of the said metalled link road

but it has specifically been mentioned in Para No.12 in the impugned judgment Annexure P-5 that the Local Commissioner had reported that the said Culvert was situated 30 feet away from the land of defendants No.1 and 2. Although, it has been further observed in the same para that a Hume Pipe is also reported to be existing at the spot but however, it has also categorically been mentioned in Para No.11 therein that during the course of arguments, learned counsel for defendants No.3 to 5 had submitted that the said Hume Pipe had not been installed by them. This fact falsifies the averments of the plaintiff regarding its installation by the afore-said defendants. To add to it, the Lower Appellate Court has also observed in para No.12 of the said judgment that the drainage of the water from the fields of the plaintiff would not be affected as there exists a 20 x 24 feet Culvert for the said purpose. At this stage, the plaintiff has not been able to place any cogent material on the record to belie the above-mentioned contents of the report of the Local Commissioner or to rebut the afore-discussed observations as made by the Lower Appellate Court.

6. The observations, as made in **Patneedi Rudrayya (supra)**; **Registered Society, Arya Priti Nidhi Sabha, Punjab Gurudatt Bhawan, Jullundur City etc (supra)** and **Chowringhee Residency Private Limited (supra)**, are of no avail to the plaintiff because the facts and circumstances of the above-cited cases are quite distinguishable from those of the present one. In **Patneedi Rudrayya (supra)**, Hon'ble Supreme Court had dealt with a Civil Appeal arisen out of the civil suit which had been decided after recording the evidence whereas in the instant case, as discussed earlier, the

plaintiff has sought the relief of *ad-interim* injunction and he has not been able to *prima-facie* establish the fact that the raising of any construction by defendants No.1 and 2 in their own land, would obstruct the drainage of the rainy water from his fields or would adversely affect the same. Similarly, in **Registered Society, Arya Priti Nidhi Sabha, Punjab Gurudatt Bhawan, Jullundur City etc. (supra)**, the dispute between the parties pertained to the opening of apertures in the wall of the property of one party facing towards the property of the other one and then, in **Chowringhee Residency Private Limited (supra)** also, the plaintiff alleged that the proposed construction would diminish the light and air being enjoyed by him whereas in this case, as mentioned above, the plaintiff has not been able to show, at this stage, that the afore-alleged action of defendants No.1 and 2 would cause any damage to his crops.

7. In view of the fore-going discussion, this Court is of the considered opinion that the impugned order as well as the judgment do not suffer from any infirmity, illegality, irregularity or perversity so as to warrant any interference by this Court. Resultantly, the revision petition in hand, being bereft of any merit, stands dismissed.

January 04, 2023

Yag Dutt

**(MEENAKSHI I. MEHTA)
JUDGE**

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>