

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

**CM-1095-CII-2023 in/and
CR-5508-2022 (O&M)
Date of Decision:23.01.2023**

Ravi Kumar

...Petitioner

Vs.

Ashok Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Munish Gupta, Advocate
for the petitioner.

Mr. Nikhil Kaushik, Advocate
for respondents No.1 to 3.

ARUN MONGA, J. (ORAL)

CM-1095-CII-2023

This is an application for grant of interim stay against respondents No.1 to 3, restraining them from raising any construction during pendency of the revision petition.

On advance service of notice, learned counsel for respondents No.1 to 3 causes appearance and opposes the application.

In the premise, it is deemed more appropriate that the main case, which is already listed for hearing on 19.04.2023, is taken up on Board for hearing today itself, instead of rendering piecemeal decision, to which learned counsel for the parties are also agreed.

Ordered accordingly. Application stands disposed of.

CR-5508-2022 (O&M)

Petition herein, *inter alia*, is for setting aside order dated 11.10.2022 (Annexure P-5) passed by learned Civil Judge (Junior Division), Rewari, whereby in a suit for declaration and permanent injunction instituted

by petitioner/plaintiff, application under Order 39 Rules 1 & 2 CPC filed by him, was dismissed. Further prayer has been made for setting aside order dated 03.11.2022 (Annexure P-7) passed by learned District Judge, Rewari, whereby civil miscellaneous appeal filed against order dated 11.10.2022, was also dismissed.

2. Having heard the competing arguments, it emerges that this is a dispute with regard to the right of respondent/defendants No.1 to 3 in the suit as to whether the lease deed gives them any right to raise construction and/or if the construction is being raised, the same is even otherwise permissible in law?

3. The said controversy is a subject matter of the trial before the Learned Trial Court. At this stage, in order to balance the equities, I am of the view that in case it is found on conclusion of trial that the lessee/defendants were/are not permitted to raise any construction on the plot in question, they shall not claim any equity on the ground that they have spent their money on the plot and claim that they be either compensated or be allowed after termination of lease to continue with the same. It is made clear that in case the petitioner/plaintiff succeeds before the learned Trial Court, defendants shall restore the plot in question in original condition and any construction raised thereupon shall be at their own sole peril. It is also made clear that petitioner/plaintiff shall naturally be at liberty to seek his remedy before the statutory authorities in case the construction raised on the plot in question, is also not permissible in law.

4. Revision petition stands disposed of in the above terms.

5. Pending application/s, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

January 23, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No