

2024:PHHC:091182



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

CR-1042-2021(O&M)

Date of Decision: July 19, 2024

Jalaj Kumar and others

...Petitioners

Versus

Dalip Kumar Arora

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Krishan Sehajpal, Advocate
for the petitioners.

None for the respondent.

ARCHANA PURI, J.

Challenge in the present revision petition is to the affirmatory orders dated 17.12.2020 (Annexure P-5) and 04.03.2021 (Annexure P-6) passed by learned trial Court as well as Appellate Court.

The facts germane, to be noticed are as follows:-

That, initially, petitioners-plaintiffs had filed a suit for permanent injunction to restrain respondent-defendant from demolishing the gate, installed at the opening of the street, leading to houses of the plaintiffs. Along with the same, an application was also filed under Order 39 Rule 1 and 2 CPC, for restraining the defendant from demolishing the requisite gate and also for restraining him from raising stairs or any type of construction,

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at the portion, shown red in the site plan, annexed thereof.

After hearing learned counsel for the parties, on appraisal of the material coming forth, the application under Order 39 Rule 1 and 2 CPC was dismissed by learned trial Court vide order dated 17.12.2020. Being aggrieved, the plaintiffs filed an appeal and the same was also dismissed by learned Appellate Court below, vide order dated 04.03.2021.

Feeling aggrieved by the affirmatory orders, the petitioners-plaintiffs have filed the present revision petition.

In pursuance of the notice issued, none had made appearance on behalf of the respondent, despite service.

Learned counsel for the petitioners heard.

The petitioners-plaintiffs are seeking injunction to restrain the respondent-defendant, who has a shop, abutting the road of the street, where the gate, as such, has been installed. Learned counsel for the petitioners, while making reference to the photographs (Annexure P-3) submits that the respondent-defendant, who is the owner of the shop, on the corner of the street, intends to demolish the gate and wants to construct a stair-case, in the street.

Undisputedly, from the impugned orders, it is evident that the street, as such, is not a private street, it is a public street. Upon this, petitioner-plaintiff No.1 had erected the gate, without any sanction accorded by the municipality. Though, it is now submitted that it is for the security and safety of the persons in the locality, but however, it could not be done, without the intervention of the Municipal or Government authority.



Though, it is submitted that the respondent-defendant, as such, intends to raise construction of the stair case, in the street, to have access to his first floor of the shop, but however, it is evident from the photographs (Annexure P-3) that the petitioners-plaintiffs have themselves constructed ‘*tharas*’ towards the street and have also opened the doors and constructed stairs for gaining access to the first floor of their respective properties.

In the given circumstances, the necessary ingredients, with regard to issuance of interim injunction, as such, does not lie in favour of the petitioners-plaintiffs. Considering the same, the impugned orders, warrants no interference, while exercising revisional jurisdiction of this Court.

Hence, the revision petition sans merit and the same is hereby dismissed.

July 19, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No