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

(124)

CR-1173-2025

Date of Decision: - 25.02.2025

Ram Kishan and another

....Petitioners

Versus

Rajesh Kumar and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sunil Agnihotri, Advocate, for the petitioners.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 14.02.2025 (Annexure P-9) passed by the Civil Judge (Jr. Division), Mukerian in Civil Suit No.550/2018 titled as 'Ram Kishan and another Vs. Rajesh Kumar and others', whereby the application under Order 14 Rule 4 read with Section 151 CPC for framing additional issue has been dismissed.

2. Learned counsel for the petitioners has submitted that in the present case, an additional issue to the effect that “whether the site plan filed by the defendant/counter claimants is wrong, incorrect and does not depict the true and exact position as per the spot?OPP” is also required to be framed. It is submitted that the said issue is necessary for the proper adjudication of the case.

3. The trial Court vide order dated 14.02.2025 (Anneuxre P-9)



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had dismissed the said application by observing that there is no need to frame specific issue with respect to the site plan since the said aspect would be considered and decided under the main issues framed in the suit. In the impugned order, it has further been observed that specific finding would be given with respect to the site plan relied upon, under the main issues. The said order apparently protects the right of both the parties.

4. On 09.12.2024, the trial Court had framed the following issues: -

*“Present:- Sh. Rajeev Mehta Advocate for the plaintiff.
Sh.Vivek Kanwar, Advocate for the defendant No.1 & 2.
Sh.Joginder Singh, Advocate for the defendant No.2 & 3.*

Heard. Vide my separate detailed order of even date, the applications under Order 39 Rule 1 & 2 C.P.C. filed by the plaintiffs and the counter claimants have been disposed off as detailed therein. The counsels for both the parties appeared and stated that there is no chance of compromise between the parties and requested to frame issues in the present case. Therefore, there is no purpose for sending this case for any medium of ADR under Section 89 C.P.C. Therefore, from rival pleadings of the parties following issues are hereby framed:-

- 1. Whether the plaintiffs are entitled to the decree of permanent injunction as prayed for? OPP**
- 2. Whether the suit of the plaintiffs is not maintainable? OPP**
- 3. Whether the plaintiffs have not come to the Court with clean hands?OPD.**
- 4. Whether the plaintiffs have no cause of action to file the present suit? OPD.**
- 5. Whether the plaintiffs are estopped by teir own act and conduct to file the present suit?OPD.**
- 6. Whether the defendants No. 1 & 2 / counter claimants are entitled to the decree of counter claim as prayed for?OPCC**
- 7. Whether the counter claim is not maintainable?OPR.**
- 8. Whether the counter claimants have not come to the Court with clean hands?OPR.**



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9. *Whether the counter claimants have no cause of action to file the present suit OPR*

10. *Relief.*

No other issue arises nor has been pressed. Onus is not disputed.

Case is adjourned for evidence of the plaintiffs on filing of PF, DM and list of witnesses, if any, be filed within 15 working days otherwise no assistance of court shall be provided in procuring the presence of witnesses. Plaintiffs are further directed to supply the copies of affidavits of witnesses, intended to be examined, 10 days in advance from the date fixed to the opposite counsel so that their cross-examination may also be conducted on the date fixed i.e. 17-12-2024

Date of Order: 09-12-2024

*Aarti Sharma, PCS
Civil Judge (Jr.Divn.), Mukerian
UID NO. PB00592”*

5. A perusal of the above issues would show that the same are wide enough to cover all the disputes and thus, the trial Court had rightly observed that while considering the above-said issues, the question regarding the correctness of the site plan would also be considered. A further perusal of the order dated 09.12.2024 would show that it has been specifically recorded in the same that no other issues have been pressed. Entertaining the present revision petition under Article 227 of the Constitution of India would only cause delay in the proceedings whereas the interest of both the parties has been protected by virtue of the impugned order dated 14.02.2025.

6. The Hon'ble Supreme Court in the case of “**Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil**”, reported as (2010) 8 ***Supreme Court Cases*** 329, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or



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courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

7. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

February 25, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
 Whether reportable?

Yes/No
 Yes/No