



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

123

CR-3219-2022

Date of decision: 01.04.2025

SATIDAN SINGH ALIAS SATPAL SINGH AND ORS.**..Petitioners****Versus****PAWAN KUMAR****..Respondent****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: None for the petitioners.

Mr. R.K. Girdhwal, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. This revision petition has been filed by the defendants in a plaintiff's suit for grant of decree of permanent injunction.
2. The petitioners are co-owners/co-sharers in the joint property. The plaintiff (respondent herein) purchased undivided share to the extent of 2 kanals by virtue of sale deed dated 17.12.2014 from Smt. Pushpa Bai, who was one of the co-owners. He filed a suit for grant of decree of permanent injunction along with an application under Order XXXIX Rule 1 and 2 for grant of temporary injunction restraining the defendants from continuing with construction and dispossessing him. It came on record that residential houses have been constructed by the defendants and the plaintiff is not in possession.
3. Thus, the trial Court dismissed the plaintiff's application. The First Appellate Court reversed the order passed by the trial Court on the ground that partition proceedings are pending before the revenue authority.



Hence, the Court ordered maintenance of status quo regarding construction and possession.

4. This Bench has heard the learned counsel representing the respondent at length and with their able assistance perused the paperbook.

5. The First Appellate Court has not recorded any reason whatsoever before setting aside the trial Court's order passed. Secondly, the plaintiff (respondent) is a purchaser of undivided share in the joint property. Hence, he is required to seek partition of the property.

6. Learned counsel for respondent does not dispute that some houses have been constructed. Hence, the property is not being used for agricultural purposes. Even if some construction is carried out by the defendants, it would result in value addition and not reduction of the price of the property.

7. The Appellate Court can interfere with the order passed by the trial Court only after recording a finding that the trial Court has erred in passing the impugned order. The First Appellate Court has accepted the appeal while making the following observations:-

“It is not disputed that partition proceedings between the parties are pending before revenue court. Parties to the suit are directed to expedite the partition proceedings before A.C. Ist grade. Accordingly parties to the suit are directed to maintain status quo regarding construction and possession over suit land comprised in rect. and killa no.34//7, 8/1 during pendency of the suit. Appeal stands allowed. LCR alongwith copy of this order be sent to trial Court. Appeal file be consigned.”

8. It is evident that the First Appellate Court has failed to properly exercise its jurisdiction. It was the responsibility of the First Appellate Court to critically analyse the reasons recorded by the trial Court and reverse the same if the Court found them to be erroneous.



9. In absence thereof, the Appellate Court had no jurisdiction to interfere with the order passed by the trial Court. Hence, the impugned order passed by the First Appellate Court is set aside and that of the trial Court is restored.

10. With these observations, the revision petition is allowed.

April 01st, 2025
Ayub

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*