



CR-5118-2024(O&M)

129 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5118-2024(O&M)

Date of decision: 21.01.2025

Trilok and another

..Petitioners

Versus

Bijender Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Shiv Kumar, Advocate
for the petitioners

Mr.Kamal Chowdhary, Advocate for the respondents

* * * *

ANIL KSHETARPAL, JUDGE

1. This is defendant's revision petition to assail the correctness of the First Appellate Court's order passed on 02.08.2024 while directing the parties to maintain 'status quo' qua ownership, possession as well as construction, till the disposal of the suit.

2. The First Appellate Court surprisingly has interfered at the nascent stage of the suit, particularly when an application under Order XXXIX Rule 1 & 2 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') is pending before the trial court.

3. In order to comprehend the issues involved in the present case, some relevant facts, in brief, are required to be noticed.

4. Rohtash was owner of 4 kanals 11 marlas of land. He sold 2 kanals 1.5 marlas in favour of Laxmi Devi vide registered sale deed dated

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14.12.2006, who in turn, executed a registered general power of attorney in favour of Smt.Prabha Sharma (Annexure P-6) with respect to plot measuring 150 sq. yards. Construction on the plot was raised by Smt.Prabha Sharma. Subsequently, Smt. Prabha Sharma executed a general power of attorney in favour of the petitioner (defendant before the trial court) on 20.08.2018, with respect to the aforesaid, 150 sq. yards plot on which some construction was raised by Smt. Prabha Sharma. The petitioner subsequently on the basis of general power of attorney executed a sale deed dated 03.12.2018, in favour of his wife who demolished the previous construction and started fresh construction.

5. The plaintiffs are general power of attorney holders from Nawab Singh, Inder Pal Singh, Rajinder Singh and Anurag Bhushan. Rohtash had in fact executed a general power of attorney with respect to 700 sq. yards plot in favour of the aforesaid 4 persons i.e Nawab Singh, Inder Pal Singh, Rajinder Singh and Anurag Bhushan.

6. Subsequently, these four persons executed a general power of attorney in favour of the plaintiffs with respect to plot measuring 565 sq. yards out of which they have already sold 415 sq. yards. Now, the plaintiffs claim ownership of the plot in dispute. The trial court at the ad interim stage refused to grant injunction while keeping the application under Order XXXIX Rule 1 & 2 CPC pending. The parties were permitted to file their pleadings. The plaintiffs filed an appeal, which has been allowed. A bare perusal of the impugned order shows that appellate court has not recorded any reason whatsoever while accepting the appeal. While granting injunction, the First Appellate Court has also failed to apply well known



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three tests namely; the prima facie case, the balance of convenience and irreparable loss and injury, which the plaintiff shall suffer if the injunction is not granted. The appellate court has just observed that defendants have constructed stilt parking without permission of the concerned authority. Hence, status quo was ordered. The Appellate Court has also prima facie failed to determine the issue of the possession either against the plaintiff or the defendants.

7. The jurisdiction of the appellate court at the initial stage, particularly when an application under Order XXXIX Rule 1 & 2 CPC is pending before the trial court is narrow.

8. It is only in rare and exceptional circumstances that appellate Court would interfere by passing the impugned order. The First Appellate Court has decided the application under Order XXXIX Rule 1 & 2 CPC in totally shoddy and illegal manner. Hence, the same is set aside. The trial court is requested to decide the application filed under Order XXXIX Rule 1 & 2 CPC within next three months from the date of receipt of certified copy of this order.

9. The revision petition stands allowed.

10. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

21.01. 2025
rekha

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No