

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

**CR-5965-2025 (O&M)
Reserved on :-09.09.2025
Pronounced on :19.09.2025**

Vineet Kumar

.... Petitioner

Versus

M/s TDI Infrastructure Private Limited and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

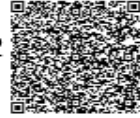
Mr. Vijay Kumar Jindal, Senior Advocate with
Mr. Jagdeep Singh, Advocate and
Mr. Abhishek Shukla, Advocate
for the petitioner.

Mr. Munish Gupta, Advocate and
Mr. Akash Mehta, Advocate
for caveators/respondent Nos.1 and 2.

VIRINDER AGGARWAL, J.

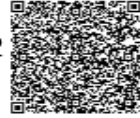
1. The petitioner has invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India assailing the order dated 07.08.2025 passed by the learned Additional District Judge, Sonapat, whereby the order dated 01.04.2025 of the learned Additional Civil Judge (Senior Division), Sonapat granting the petitioner's application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 was reversed.

2. Briefly stated, the facts of the case are that the plaintiffs, along with defendant No.4, claim to be co-sharers in joint possession of the suit



land in equal shares as per Jamabandi for the year 2014-15. Though the Jamabandi records the land as *Chahi*, the actual position is otherwise. Defendant No.4, without seeking partition of the suit land by metes and bounds, obtained a licence from the Town and Country Planning Department, Government of Haryana, for setting up a Group Housing Colony over the suit land along with adjoining land, and was further granted an occupation certificate vide letter dated 15.12.2017 in respect of construction raised on land. It is alleged that defendants No.4 and 5, taking undue advantage of the simplicity of the plaintiffs, procured their signatures on certain papers and documents and got the site plan of the entire project sanctioned, which also included the plaintiffs' share in the suit land. On the basis of the approved site plan, defendant No.4 carved out plots in the suit land and adjoining land and allotted the same to various purchasers. The plaintiffs came to know of this about 8–9 months prior to the institution of the suit, when the allottees, along with property dealers, visited the site for inspection of the plots. According to the plaintiffs, defendants No.4 and 5 have committed fraud not only upon them but also upon the prospective buyers.

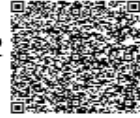
2.1. Upon objection being raised by the plaintiffs, defendants No.4 and 5 assured them that no plots would be sold without partition of the suit land. However, in collusion with defendants No.2 and 3, they instituted partition proceedings before the Court of defendant No.2 and once again obtained the plaintiffs' signatures on certain documents to mark their presence before the Assistant Collector Ist Grade, Rai. It is alleged that defendants No.2 and 3, without following due procedure and despite lacking jurisdiction—since the suit land, being *Gair Mumkin*, had lost its agricultural character (*Chahi*), proceeded with partition in an arbitrary manner. These



material facts were deliberately suppressed while seeking partition. By continuing with the proceedings, defendant No.2 has exceeded his jurisdiction. The plaintiffs contend that if the partition proceedings are allowed to continue, they would suffer irreparable loss incapable of compensation. Accordingly, along with the suit, the plaintiffs moved an application under Order XXXIX Rules 1 and 2 CPC seeking an injunction to restrain the defendants from proceeding further with the partition or interfering in possession of plaintiff or creating any third party rights over suit property.

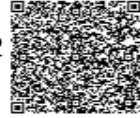
3 Defendants No.1 to 3 contested the suit as well as the injunction application, raising preliminary objections regarding maintainability, limitation, mis-joinder and non-joinder of necessary parties, estoppel, concealment of material facts, and absence of cause of action. On merits, it was pleaded that the suit land had already been legally partitioned by defendant No.1, with Mutation No.7641 duly entered and sanctioned on 01.10.2024. Defendant No.2 had carried out the partition after due verification, and since the land was recorded as *Chahi* at the time of partition, he was competent to effectuate the same. It was further averred that the plaintiffs themselves appeared before the Tehsildar, Sonapat, and filed objections against *Naksha-Kh*. After hearing arguments, defendant No.2 inspected the spot, found the *Naksha-Kh* prepared by the field staff to be correct, and dismissed the plaintiffs' objections. Having participated in the proceedings without raising any objection as to the nature of the land, the plaintiffs are now estopped from disputing the same.

3.1 Defendants No.4 and 5 also contested the suit and injunction application, *inter-alia*, on the grounds that the suit was not maintainable



being barred under Section 41 of the Specific Relief Act as well as under Order II Rule 2 CPC. On merits, they reiterated that the suit land was agricultural at the time of partition, being recorded as *Chahi* in the revenue record. It was pointed out that plaintiffs No.1 and 2 personally appeared before the Revenue Court on 26.09.2019, where the matter was adjourned for filing of reply. However, when the plaintiffs failed to appear thereafter, they were proceeded against *ex-parte* vide order dated 18.11.2019. Upon their application, the *ex-parte* order was set aside, and the plaintiffs participated in the proceedings through counsel. Subsequently, on 27.01.2020, *Naksha-Kh* was submitted. The plaintiffs filed objections on 26.02.2020, which were dismissed after spot inspection by the Assistant Collector Ist Grade, Rai. It was asserted that at no stage did the plaintiffs raise any objection regarding the nature of the land. They fully participated in the proceedings, including when the *Sanad Taksim* was prepared and confirmed. The plaintiffs even moved an application seeking stay of partition proceedings after the *Sanad Taksim* had already been prepared. Thus, the entire suit is based on incorrect and misleading facts.

3.2 It was further contended that the plaintiffs never challenged the partition order before the competent authority. Having accepted the partition, they are now in physical possession of the land allotted to them, while the answering defendants are in possession of their respective shares, over which they are raising construction after obtaining CLU. The plots have been carved out only from the land allotted to the answering defendants. The plaintiffs' allegation of having been misled into signing documents was specifically denied, as they themselves appeared in the partition proceedings. It was emphasized that the land allotted to the plaintiffs is situated adjacent



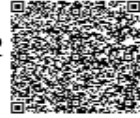
to a canal, whereas the land allotted to defendants is away from the canal, on the rear side. Accordingly, dismissal of the injunction application was prayed for.

4. Upon hearing the parties, the learned Additional Civil Judge (Senior Division), Sonapat partly allowed the application for temporary injunction, restraining the defendants from interfering with the plaintiffs' peaceful possession over the land described in paragraph No.1 of the plaint. Further, defendant No.4 was specifically restrained from creating third-party interests in respect of any portion of the suit land, whether by way of allotment of plots, delivery of possession, or raising of construction thereon, in any manner whatsoever, forcibly or illegally.

5. The said order was carried in appeal by defendants No.4 and 5, and the learned First Appellate Court, upon consideration of the matter, allowed the appeal and consequently set-aside the order passed by the learned Additional Civil Judge (Senior Division), Sonapat. Aggrieved by the appellate order, the petitioners have invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India through the present revision petition.

6. Learned counsel for respondents No.1 and 2 entered appearance to contest the revision petition on the strength of a caveat, while learned Assistant Advocate General, Haryana accepted notice on behalf of respondent No.3-State.

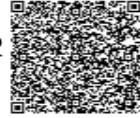
7. I have heard learned counsel for the parties at length and carefully considered their respective submissions. I have also meticulously perused the pleadings and documents on record, as well as the orders passed by the Courts below.



8. Learned counsel for the petitioner assailed the impugned order primarily on the ground that the learned Additional District Judge, Sonapat failed to appreciate the settled proposition of law that neither consent, nor waiver, nor acquiescence can vest jurisdiction in a Court which is otherwise incompetent to entertain the matter. In the present case, the very foundation of challenge to the partition proceedings before the Revenue Authorities rests upon the plea that the Revenue Court lacked jurisdiction to partition the suit land, as the land in question, being *Gair Mumkin*, had ceased to retain its agricultural character after defendants No.4 and 5 obtained a license to develop a residential colony over the suit land and adjoining parcels and got occupation certificate of buildings over land. The mere participation of the plaintiffs in the partition proceedings, it was urged, could not have conferred jurisdiction upon the Revenue Court to adjudicate partition of such land.

8.1 It was further argued that the learned First Appellate Court, while setting aside the well-reasoned order of the learned Additional Civil Judge (Senior Division), failed to exercise judicial discipline and overlooked the limited scope at the interlocutory stage, where the plaintiffs were required only to establish a *prima facie* case demonstrating that the land did not retain its agricultural character when the partition application was instituted. The Appellate Court, however, erroneously held that there was no proof of irreparable injury, ignoring that any construction raised or third-party rights created during the pendency of the suit would not only cause irreversible prejudice to the plaintiffs but also render the litigation more complex and protracted.

8.2 Counsel further emphasized that the license in favour of defendants No.4 and 5 had been granted as far back as in 2006 and the



occupation certificate for land was issued in 2017, much prior to the initiation of partition proceedings, which clearly indicates that the suit land had lost its agricultural character. These vital aspects, having been overlooked by the First Appellate Court, vitiate the impugned order, warranting interference by this Court in exercise of its revisional jurisdiction.

9. Conversely, learned counsel for the respondents/defendants contended that the findings recorded by the learned First Appellate Court suffer from neither illegality nor infirmity. It was argued that the Appellate Court rightly set aside the injunction granted by the trial Court, as the plaintiffs were fully aware of and had actively participated in the partition proceedings, yet never raised any objection before the Revenue Authorities regarding the alleged lack of jurisdiction. Accordingly, dismissal of the present petition was prayed for.

10. The case set up by the petitioners/plaintiffs rests primarily on the plea that the nature of the suit property had undergone a change, having been converted into *Gair Mumkin* land after the grant of licence in 2006 and the issuance of occupation certificate in 2017. It was argued that although the Jamabandi recorded the land as *Chahi*, in fact it was no longer agricultural.

10.1 The learned First Appellate Court, however, while setting aside the order of the learned Civil Judge (Senior Division), recorded a categorical finding that the appellants could not be permitted to dispute the jurisdiction of the Revenue Authorities, as they had actively participated in the partition proceedings, filed objections against *Naksha-Kh*, and pursued the matter on merits without raising any objection regarding jurisdiction despite simultaneously contesting the civil suit on that very ground. The Court further noticed that the partition proceedings had already been finalized, as

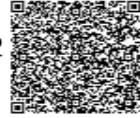


the objections of the appellants to *Naksha-Kh* were dismissed after a spot inspection, whereupon the Assistant Collector 1st Grade, Rai, found the demarcation prepared by the field staff to be correct.

10.2 Reliance was placed by the petitioners upon Annexure P-5, a licence No.839 of 2006 obtained for setting up a residential plotted/group housing colony at village Nangal Kalan, District Sonapat, covering Rect. No.19 Killa Nos.15(8-0), 16/1(5-2) and Rect. No.20 Killa Nos.10/2, 11/1(3-19). No doubt, such a license had been granted on 21.04.2006, valid up to 20.04.2008. However, the grant of license by itself merely indicated an intention to develop a colony and could not *ipso-facto* alter the revenue character of the land from *Chahi* to *Gair Mumkin*.

10.3 The other document pressed into service was the occupation certificate dated 15.12.2017, which the petitioners contended established that after grant of licence, construction had been raised and occupation permitted. A close scrutiny of that document, however, reveals that it pertained to license Nos.153 to 167 of 2004 dated 15.12.2004, license Nos.183 to 228 of 2004 dated 17.12.2004, license Nos.42 to 60 of 2005 dated 26.07.2005, and license Nos.101 to 144 of 2005 dated 05.08.2005. Significantly, there is no reference whatsoever to license No.839 of 2006, which alone related to the suit land. Thus, the said occupation certificate does not pertain to the suit property, nor can it be relied upon to *prima-facie* establish that the nature of the suit land had changed.

10.4 It further appears from the injunction order of the learned Civil Judge (Senior Division), Sonapat that the Court was unduly influenced by this very occupation certificate while observing, in paragraph 16 of its order, that the land had lost its agricultural character. Since the occupation



certificate dated 15.12.2017 did not concern the suit land, there was in fact no material to justify the conclusion that the land had ceased to be *Chahi* and had become *Gair Mumkin*.

10.5 Since the foundational certificate does not relate to the suit property, the appellant-plaintiff attempted to secure an injunction by relying on unrelated documents, which amounts to misrepresentation. An injunction being an equitable relief, the party seeking it must approach the Court with clean hands. As the appellant-plaintiff is guilty of misrepresenting a material fact, the learned First Appellate Court rightly declined to grant the injunction.

10.6 In view of the above, the learned Additional District Judge rightly interfered with and set aside the order of the trial Court, particularly when the Revenue Authorities themselves, upon spot inspection, had found the suit land capable of partition. Finding no merit in the present revision petition, the same is accordingly dismissed.

11. Since the main matter has now been adjudicated and stands disposed of by this order, all pending miscellaneous applications, if any, which are ancillary to the present proceedings, also stand disposed of accordingly, as nothing further survives for consideration therein.

19.09.2025
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No