



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

**CR No. 8333 of 2025 (O&M)
DATE OF DECISION: 29.11.2025**

MANGE RAM AND ANOTHER

.....PETITIONERS

Vs.

RAVINDER KUMAR AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Abhinav, Advocate,
for the petitioners.

Mr. Parminder Singh, Advocate,
for the respondents.

AMARINDER SINGH GREWAL, J.

1. Prayer in the present Civil Revision Petition, filed under Article 227 of the Constitution of India, is for setting aside the impugned order dated 31.10.2025 (Annexure P-1), passed by the learned Additional District Judge, Karnal, whereby the application for stay filed by the plaintiffs/petitioners/appellants has been rejected.

2. Brief facts of the case are that the petitioners/plaintiffs had filed a suit for mandatory injunction with consequential relief of permanent injunction before the Court of the learned Civil Judge (Senior Division), Karnal. The case of the petitioners/plaintiffs was that the parties are related *inter se* and are the offsprings of common ancestors. They are the owners in possession of the land as detailed in the suit. The plaintiffs and defendants are co-sharers in the joint land, which has not been partitioned



by metes and bounds or before any competent Court of law. It was alleged by the plaintiffs that the defendants, without legally partitioning the suit property, had started raising construction over the joint land adjacent to the road on the most valuable portion of the suit property, despite being requested by the plaintiffs not to raise construction without getting the land partitioned.

2.1 In pursuance to the notice of the suit, respondent/defendant No. 1 appeared and contested the suit while raising preliminary objections regarding *locus standi*, maintainability, cause of action, concealment of material facts, estoppel and jurisdiction, *inter alia*. Respondents/defendants No. 2 and 3 were served but failed to appear and were, therefore, proceeded against *ex parte*.

2.2 Replication was not filed by the petitioners/plaintiffs and six issues, including the issue of 'relief', were framed by the learned lower court. Both parties led their respective evidence and produced documents.

2.3 Upon hearing learned counsel for the parties and appreciating the entire record, the learned lower court dismissed the suit filed by the petitioners/plaintiffs, vide judgment and decree dated 23.09.2025 (Annexure P-4).

2.4 Aggrieved against the same, the plaintiffs/petitioners filed an appeal before the learned District Judge, Karnal (Annexure P-5). Along with the appeal, an application for restraining the defendants from raising construction over the suit land and from changing the nature thereof till the final disposal of the appeal was also filed by the petitioners/appellants (Annexure P-6). However, the learned Additional District Judge, Karnal,



dismissal the application vide order dated 31.10.2025 (Annexure P-1) (now under challenge).

3. Aggrieved against the aforesaid order, the petitioners/plaintiffs have filed the present Civil Revision Petition before this Court.

4. I have heard learned counsel for the parties and have perused the paper-book very carefully.

5. It is not disputed by the learned counsel for the parties that a suit for partition of the suit property is already pending. The learned Civil Judge (Senior Division), Karnal, in its judgment dated 23.09.2025 (Annexure P-4), in paragraph No. 13, has categorically held that the plaintiffs as well as the defendants have been cultivating and occupying their specific shares, which are in their exclusive possession since long, and have also raised construction over their respective portions. It was further observed that a presumption of private partition can be drawn. It was also noticed that Mange Ram (petitioner No. 1) admitted in his statement that he did not object when defendants No. 1 and 2 raised construction of their shop. Thus, from the said statement, it can be safely inferred that the present respondents had raised construction with the consent of petitioner No. 1-Mange Ram.

6. Learned counsel for the petitioner submits that although the respondents had raised construction over the shop, they are now merging more area into the shop beyond their share.

7. To the contrary, learned counsel for the respondents submits that the respondents are merely repairing the lintel due to leakage/seepage and have not encroached beyond their exclusive share.



8. This Court finds that, at this stage, there is no material on record to show that the respondents have encroached upon or merged any area beyond their admitted possession. Since the suit for partition is pending and the respondents are in exclusive possession of their respective portions, it is well-settled that a co-sharer in physical possession of a specific portion of joint land, whose possession is admitted, cannot be restrained from raising construction thereupon. Any construction raised by the respondents over their exclusive portion shall, however, remain subject to the final outcome of the partition proceedings.

9. In view of the above and also considering that petitioner No. 1-Mange Ram had himself consented to the construction raised by the respondents, this Court finds no reason to interfere with the order passed by the learned First Appellate Court. The learned Additional District Judge, Karnal has rightly declined to grant stay and has dismissed the application filed by the petitioners/plaintiffs, vide order dated 31.10.2025 (Annexure P-1).

10. Thus, finding no illegality or infirmity in the impugned order dated 31.10.2025, the present Civil Revision Petition, being devoid of merit, is accordingly dismissed.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

NOVEMBER 29, 2025
nitin

(AMARINDER SINGH GREWAL)
JUDGE

Whether Speaking	Yes
Whether Reportable	No