

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2737 OF 2020
(Arising out of SLP(C) No. 5258 of 2020)

POOJA MITTAL & ORS.

Appellant(s)

VERSUS

RAKESH KUMAR & ORS.

Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

This appeal takes exception to the judgment and order dated 13.12.2019 in C.R. No. 7861 of 2019 passed by the High Court of Punjab & Haryana at Chandigarh. The High Court while disposing the revision application filed by respondent No.1 against concurrent view taken by the Trial Court and First Appellate Court rejecting interim relief application of the plaintiffs (respondents), directed the parties to maintain status quo with regard to the suit property.

The High Court, however, did not advert to the finding of fact recorded by the Trial Court and the First Appellate Court in favour the appellant(s). The First Appellate Court in paragraph 9 of the judgment, which was subject matter of the revision, observed thus:

"9. Admittedly, the plaintiff and his predecessor-in-interest purchased single storey of the shop and it has not been pleaded by the plaintiff that the construction available on first floor, over the suit property, was raised by the plaintiff after purchase of suit property. Photograph submitted by the plaintiff establishes the existence of construction on the rear side of first floor of the property in dispute and in view of the observations of the learned trial court the said construction consists of store and room running from West to East, over and above not only the shop of the plaintiff, but also on the shop of defendants and this means that the same was constructed by one person. Further there is no staircase for approaching the first floor of the property in dispute, as per sale deed dated 04.06.1993, purchased by predecessor-in-interest of plaintiff. Predecessor-in-interest of defendants purchased one shop having two stores in rear side on the first floor and in the Western side of the said shop, has been shown as gali four feet, owned by Moti Lal and it has been stated that gali is owned by Ram Kumar Mittal, predecessor-in-interest of defendants. It was also stated that in Eastern side there is one staircase, which is joint one, but with whom the said staircase was, it has not been mentioned, whereas in the sale deed, through which predecessor-in-interest of plaintiff purchased the shop, the fact regarding the staircase has not been mentioned. Other documents with regard to valuation etc, prepared on 10.08.2011 and

03.09.2013, also depicts that the suit property is owned by the defendants/their predecessor-in-interest. In view of the above, the trial Court rightly dismissed the application, as at present no evidence with regard to purchase of first floor over the suit property in dispute was produced by the appellant/plaintiff. In view of this, judgments referred by counsel for the appellant are not applicable at this stage"

In our opinion, the High Court committed manifest error in directing the parties to maintain status quo despite the fact that no prima facie case was made out by the plaintiffs for grant of such relief.

As the suit is still pending between the parties, we refrain from making any further observation lest it would affect the plea available to the concerned parties before the Trial Court in the pending suit.

Suffice it to observe that the impugned order directing the parties to maintain status quo cannot be sustained in the fact situation of the present case. The same is set aside. However, at the same time, it is made clear that any action/step taken by the appellant(s) in respect of the suit property will be subject to the outcome of the suit pending before the Trial Court.

Considering the nature of dispute involved, we direct

the Trial Court to expedite the hearing of the suit and dispose of the same, preferably before March, 2021.

All contentions available to the parties are left open.

The Civil Appeal is disposed of accordingly.

Pending applications, if any, stand disposed of.

.....J
(A.M. KHANWILKAR)

.....J
(DINESH MAHESHWARI)

.....J
(SANJIV KHANNA)

New Delhi
July 14, 2020

ITEM NO.6

Virtual Court 6

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 5258/2020

(Arising out of impugned final judgment and order dated 13-12-2019 in CR No. 7861/2019 passed by the High Court Of Punjab & Haryana At Chandigarh)

POOJA MITTAL & ORS.

Petitioner(s)

VERSUS

RAKESH KUMAR & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.36234/2020-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 14-07-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s)

Mr. Aabhas Kshetarpal, Adv.
Mr. Siddhartha Jha, AOR

For Respondent(s)

Mr. Abhimanyu Tewari, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The Civil Appeal is disposed of in terms of the signed order.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)

[Signed order is placed on the file]