



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

**370**

CR-1259-2024 (O&M)  
Date of Decision:-13.05.2026

Rajinder Kumar @ Raju and another

... Petitioners

Versus

Ashwani Kumar and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Present:- Mr. Munish Kumar Garg, Advocate,  
Ms. Bhawna Thakur, Advocate and  
Mr. Yuwan Singla, Advocate, for the petitioners.

Mr. Zorawar Singh Chauhan, Advocate,  
for caveator/respondent No.1.

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**PANKAJ JAIN, J. (Oral)**

1. The petitioners assail order dated 15.1.2024 (Annexure P-2) passed by learned Additional District & Sessions Judge (VI) vide which an appeal filed by the plaintiff against judgment dated 24.8.2023 passed by learned Civil Judge (Senior Division) (NRI Court), Jalandhar (Annexure P-1), has been accepted.
2. The parties are co-sharers. The plaintiff is aggrieved of construction being raised by defendants/petitioners.
3. The plaintiff alongwith the suit for partition filed an application under Order XXXIX Rules 1 & 2 read with Section 151 CPC before learned Trial Court. The same was dismissed vide judgment dated 24.8.2023 passed by learned Civil Judge (Senior Division) (NRI Court), Jalandhar (Annexure P-1), but



with the observations that the construction raised on the spot shall be subject to partition and mere raising of construction shall not vest the defendants with any right to resist partition.

4. In the appeal preferred by the plaintiff against judgment passed by learned Trial Court, learned Appellate Court reversed the findings recorded by learned Trial Court, vide judgment dated 15.1.2024 passed by learned Additional District and Sessions Judge-VI, Jalandhar (Annexure P-2). The application filed by the plaintiff under Order XXXIX Rules 1 & 2 read with Section 151 CPC has been allowed and the defendants have been restrained from making any construction over the suit property.
5. During the course of arguments, learned counsel for the petitioners has referred to Annexure P-4 i.e. the photographs of the construction already raised.
6. In view thereof, this Court finds that it will be in the interest of justice that the order passed by learned Appellate Court is ordered to be modified to the extent that though defendants shall be entitled to furnish the construction already raised and to add fixtures thereto i.e. doors etc. to make the suit property inhabitable, but shall not raise any further construction.
7. The defendants shall file affidavit to the said effect before learned Trial Court on 18.5.2026, whereby they will undertake not to raise any further construction apart from furnishing the constructions already raised i.e. plaster and painting etc. over the suit property.
8. Needless to say, the construction raised on the spot by the defendants shall remain subject to partition and the same shall not vest any right with the defendants to resist the partition.

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9. ***Disposed off*** accordingly.

**13.05.2026**

Pankaj

**( PANKAJ JAIN )  
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No