

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

COCP No.2849 of 2014 (O&M)
Date of Decision: 17.03.2015

Dharam Pal Sahdev

. . . .Petitioner

Versus

Sh. Ramesh Chander Sahdev and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Ravindra Jain, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner is defendant No.1 in the suit which was decreed in favour of the plaintiffs on 5.3.2011 in the following manner: -

“It is ordered that the suit of the plaintiff is decreed to the effect that plaintiffs and defendants No.1 to 4 are owners in equal share qua suit property. Defendant No.1 is restrained from alienating more than his share in the suit property by way of sale, pledge, mortgage or changing the nature of suit property in any manner. The parties are left to bear their own costs.”

The said judgment and decree has been stayed by the Appellate Court on 14.3.2011 with the following order: -

“Appeal received by way of entrustment. It is checked and registered.

Let notice to the respondents be given for 3.6.2011 on filing of PF/copies etc. within four days. The operation of impugned judgment and decree is stayed, till further orders.”

The petitioner has filed the petition on the ground that the plaintiffs have willfully and knowingly disobeyed the decree dated 5.3.2011 as the property in dispute has been sold by the plaintiffs.

I have heard learned counsel for the petitioners and after examining the record, am of the considered opinion that the present petition is totally frivolous because the decree for permanent injunction can be complied with under order 21 Rule 32 of the Code of Civil Procedure, 1908 [for short ‘the CPC] and the said judgment and decree has been stayed by the Appellate Court vide its order dated 14.5.2011, therefore, the said decree was not operating and the direction issued therein was eclipsed.

In view thereof, there was no impediment in the way of the respondents to alienate the suit property during the pendency of the suit.

Thus, I do not find any merit in the present petition. Hence, the same is hereby dismissed.

17.03.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**