

105-2

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

CR No.1232 of 2015 (O&M)

Date of decision: July 09, 2015

Subhash

.....Petitioner

Versus

Surender

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Vishal Nehra, Advocate
for the petitioners.

SABINA, J

Petitioner has filed this petition challenging the orders dated 24.09.2012 and 13.11.2014.

Learned counsel for the petitioner has submitted that the Courts below had erred in dismissing the application moved by the petitioner for temporary injunction.

Petitioner has filed suit for permanent injunction. Alongwith the suit, an application for temporary injunction was filed. By way of temporary injunction, petitioner sought a direction to the respondent not to alienate his share out of the joint land and further that the respondent be restrained from interfering in his peaceful possession.

Petitioner by way of the present suit has challenged the sale-deed dated 16.08.2011 alleged to have been executed by him in favour of the respondent. The Courts below rightly held that at this stage, there was no prima-facie material on record to suggest that the sale-deed dated 16.08.2011 was a forged and fabricated document. Parties are yet to lead their evidence in support of their respective pleas. Since the respondent has got the registered sale-

deed in his favour qua the suit land, at this stage, prima-facie, he is a co-sharer with the petitioner qua the suit land. There is nothing on record to suggest that the petitioner is in exclusive possession of the suit land. In these circumstances, every co-sharer is deemed to be in possession of the joint property. The only remedy available to a co-sharer who wants separate possession is to seek partition of the joint land.

Hence, the Courts below rightly held that the respondent could not be restrained from interfering in the possession of the suit land. The Courts below further rightly held that the respondent could not be restrained from alienating his share out of the suit land as there was no prima-facie material on record that the sale-deed executed in his favour by the petitioner was a forged and fabricated document.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

July 09, 2015

mahavir