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

**CR No.2304 of 2013**

**Date of decision: April 27, 2015**

Gurcharan Singh and others

.....Petitioners

Versus

M/s Horizon Build-Con. Pvt. Ltd.

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE SABINA**

**Present:** Mr. M.K. Bhatnagar, Advocate  
for the petitioners.

Mr. Sunil Chadha, Senior Advocate with  
Ms. Pallavi Singh, Advocate  
for the respondent.

**SABINA, J**

Petitioners have filed this petition challenging the order dated 05.02.2013.

I have heard learned counsel for the parties and have gone through the record available on the file carefully.

It has been held by this Court in the case **Sant Ram Nagina Ram vs. Deva Ram Nagina Ram and others AIR 1961 PB 528** as under:-

*“(1) A co-owner has an interest in the whole property and also in every parcel of it.*

*(2) Possession of joint property by one co-owner, is in the eye of law, possession of all even if all but one are actually out of possession.*

*(3) A mere occupation of a larger portion or even of an entire joint property does not necessarily amount to ouster as the possession of one is deemed to be on behalf of all.*

*(4) The above rule admits of an exception when there is ouster of a co-owner by another. But in order to negative the presumption of joint possession on behalf of all, on*

*the ground of ouster, the possession of a co-owner must not only be exclusive but also hostile to the knowledge of the other as, when a co-owner openly asserts his own title and denies that of the other.*

*(5) Passage of time does not extinguish the right of the co-owner who has been out of possession of the joint property except in the event of ouster or abandonment.*

*(6) Every co-owner has a right to use the joint property in a husband like manner not inconsistent with similar rights of other co- owners.*

*(7) Where a co-owner is in possession of separate parcels under an arrangement consented to by the other co-owners, it is not open to any one to disturb the arrangement without the consent of others except by filing a suit for partition.*

*(8) The remedy of a co-owner not in possession, or not in possession of a share of the joint property, is by way of a suit for partition or for actual joint possession, but not for ejectment. Same is the case where a co-owner sets up an exclusive title in himself.*

*(9) Where a portion of the joint property is by common consent of the co-owners reserved for a particular common purpose, it cannot be diverted to an inconsistent user by a co-owner; if he does so, he is liable to be ejected and the particular parcel will be liable to be restored to its original condition. It is not necessary in such a case to show that special damage has been suffered. Case law reviewed.”*

Petitioners have filed suit for permanent injunction. Alongwith the suit, petitioners moved an application for grant of interim injunction. Trial Court vide order dated 29.09.2011, directed the parties to maintain status quo with regard to construction qua the suit property. The said order was set aside by the Appellate Court in appeal filed by the respondent vide order dated 05.02.2013. Admittedly, parties are co-sharers qua the suit land and the suit land has not

been partitioned so far. In these circumstances, the learned Appellate Court rightly held that the defendant could not be restrained from raising construction over the suit land as every co-sharer is deemed to be in possession of the entire joint property. Admittedly, as per the revenue record, petitioners are not in possession of any specific portion of the suit land

In these circumstances, application moved by the petitioners seeking ad-interim injunction was liable to be dismissed.

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

Dismissed.

**(SABINA)  
JUDGE**

**April 27, 2015**  
*m.singh*