

CR-2664-2015 (O&M).

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

**CR-2664-2015 (O&M).
Decided on: May 5, 2015.**

Puran Singh and another

..... Petitioner(s)

Versus

Munna Lal and others

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.R.S.Budhwar, Advocate,
for the petitioners.**

M.M.S. BEDI, J (ORAL).

Application filed by the petitioners-plaintiffs for interim injunction restraining the defendants-respondents from dispossessing the petitioners-plaintiffs from the co-owned land with defendants was allowed by the trial Court. The lower Appellate Court has set aside the said order and dismissed the application under Order 39 Rules 1 & 2 CPC, on the ground that neither the petitioners-plaintiffs have got prima facie a strong case nor balance of convenience lies in their favour and that no irreparable loss would be suffered by them in case interim injunction was not granted. The lower Appellate Court has observed that the petitioners-plaintiffs themselves have sold part of the property and delivered the possession to the subsequent purchaser.

On asking of the Court, counsel for the petitioners submits that plaintiff Puran Singh himself had sold a portion of the

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land vide Annexure P7. In such circumstances, the application for interim injunction filed by the petitioners was dismissed by the Appellate Court.

Counsel for the petitioners submits that defendants-respondents are taking steps to alienate the specific khasra numbers prejudicing the rights of the plaintiffs. He has submitted that without partition the property cannot be sold and the petitioners who are in actual physical possession cannot be dispossessed.

I have heard the learned counsel for the petitioners. It is an admitted fact that when a property is co-owned by a large number of co-sharers, a person who is in actual physical possession of a part of portion may protect his right of possession by seeking injunction but in a case where one of the plaintiffs himself has sold some property out of joint khata, no injunction can be claimed by him against the defendants.

I have gone through the prayer of the petitioners before the Courts below. They have not sought an injunction against alienation but are only concerned with the change of the nature of the land. It is an admitted fact that the parties are co-sharers and jointly own the land. No injunction has been claimed regarding alienation. So far as dispute regarding construction is concerned any construction raised by co-sharer on the portion possessed by him will always be subject to partition. The lower Appellate Court does not

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seem to have committed any error in dismissing the application filed by the plaintiff-petitioners.

The petition is dismissed.

May 5, 2015.
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(M.M.S. BEDI)
JUDGE