

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 4202 of 2015

Date of Decision: July 15, 2015

Baljit Kaur

.....Petitioner

Vs.

Smt. Kamla Rani and others

.....Respondents

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

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Present:- Mr.Gurcharan Dass, Advocate
for the petitioner.

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

An application filed by the plaintiff-petitioner restraining defendant- respondents No.43 and 44 from raising construction on the co-owned land has been dismissed by the Courts below.

I have heard learned counsel for the petitioner. He has submitted that the petitioner is owner to the extent of 2 biswas in the total land and that one of the co-sharers i.e. defendant No.20 Baljit Kaur has sold more than her share to defendants No.43 and 44 who are raising construction without getting the property partitioned.

Counsel for the petitioner, on asking of the Court, informs that partition proceedings amongst the co-sharers are pending before the revenue authorities.

After hearing counsel for the petitioner, it transpires that the grievance of the petitioner is that defendant- respondents No.43 and 44 having purchased property beyond the shares of their vendor respondent No.20 are being upon to prejudice the rights of the other co-sharers by raising construction. Right of the co-sharers to raise construction on a property co-owned by others is well settled that a co-sharer cannot be denied right to enjoy his property by raising construction.

I have considered the contention of learned counsel for the plaintiff- petitioner that the construction is being raised on the area measuring more than the extent of the share of other co-sharers. In this aspect it is observed that construction, if any, raised by any of the defendants beyond its share will certainly be subject to the partition proceedings and will be at own risk and responsibility. It will be open to the petitioner or other co-sharers to claim that construction raised during the pendency of the litigation will not prejudice their rights. With the above observations, I do not find any ground to interfere in the impugned orders.

Dismissed.

July 15, 2015
sanjay

(M.M.S.BEDI)
JUDGE