

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

**CR No. 4661 of 2014 (O&M)
Date of decision: 17.12.2015**

Surender Kumar

... Petitioner

versus

Punjab Wakf Board and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Munish Kumar Gar, Advocate for the petitioner.

Mr. Mohammad Arshad, Advocate,
for respondent Nos. 1 & 2.

Mr. Sushil Jain, Advocate for respondent No.3.

K.Kannan, J.

3rd defendant who remained ex-parte to a suit filed by his brother claiming right to possession as a co-sharer on the death of his father Ved Parkash in a suit instituted against Wakf Board and its functionary wanted the decree and judgment to be amended through an application filed by the 3rd defendant-petitioner. The amendment sought was that the decree has been granted for injunction against all the defendants including himself, failing to note that the plaintiff was afterall contending himself to be only a co-sharer which by implication must means a co-sharer with himself with the 3rd defendant and relief of injunction must be taken as injunction sought only against defendant nos. 1 and 2.

I cannot allow for any modification in the decree or judgment after hearing the counsel read out the entire plaint. If a decree has been obtained against all defendants including himself, the petitioner is at liberty to bring his own suit against his brother who was the plaintiff in earlier suit and seek his own right as a heir to his father. If such a right is claimed, the decree already obtained for injunction cannot come in the way and it will be left to the parties to take up such

contentions as it is legally tenable.

The plaintiff has described the present petitioner as a co-sharer in the plaint after the death of the father. The plaintiff is present in Court and says that he has never objected to the petitioner's half share and infact there has been a partition. It is up to the petitioner to fashion his own course of action, keeping in mind the plaintiff's acknowledgement of this right.

The revision petition is disposed of with the above observations.

(K.KANNAN)
JUDGE

17.12.2015
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