

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

CR No.5037 of 2015

Date of decision : 28.08.2015

Tej Ram and ors.

...Petitioners

Versus

Bishamber Dayal & ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Tanmoy Gupta, Advocate for petitioners.

AMIT RAWAL, J. (Oral)

CM No.17553-CII of 2015

Allowed as prayed for.

Jamabandi (Annexure P-5 and P-6) is taken on record.

Main Case

Learned counsel for petitioners submits that in suit for possession and permanent injunction, application filed under Order 39 Rule 1 & 2 seeking the restraint order against the respondent-defendant and not to raise construction on the land which is in his possession, has been dismissed by the trial Court and appeal filed against the same has also been dismissed.

Vide Civil Miscellaneous application bearing No.17553-CII of

2015, jamabandi has been placed on record which shows that both the petitioners and defendants are in joint possession in essence they are co-sharers. The remedy for the petitioner-plaintiff is to seek partition by way of separate possession and not in the manner the suit has been filed.

It is settled law that if the suit framed is not prima facie maintainable, the injunction cannot be granted.

Learned counsel for the petitioner submits that he seeks withdrawal of the revision petition with liberty to move appropriate application for amendment of the plaint.

In view of the liberty sought, the present revision petition is ordered to be dismissed as withdrawn.

28.08.2015

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**(AMIT RAWAL)
JUDGE**