

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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**CR No.549 of 2015**

**Date of Decision: 23.01.2015**

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Didar Singh

. . . .Petitioner

Versus

Bal Kishan and others

. . . . Respondents

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**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN**

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Present: Mr.Sanjay Majethia, Sr. Advocate, for  
Mr.Rajesh Kumar, Advocate,  
for the petitioner.

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**RAKESH KUMAR JAIN, J. (ORAL)**

The petitioner is aggrieved against the order by which his application to file appeal under Section 96 of the Code of Civil Procedure, 1908 [for short 'the CPC] against the judgment and decree dated 23.4.2005 has been declined.

The brief facts given to me are that one Nathu was the owner of the property measuring 797 Kanals 1 Marla. He left behind two sons, namely, Bal Kishan and Raghunath Dass and one daughter, namely, Ratni. Both the sons of Nathu filed suit for declaration and permanent injunction claiming themselves to be the owners of land measuring 708 kanal 10 marlas. The suit was filed against their sister Ratni. The said suit was filed on 20.11.2000 and was decreed *ex parte* on 23.4.2005. The petitioner has alleged that he had purchased 23 kanal 9 marla of land from Ratni on 21.11.2002 and on 21.4.2003 a written agreement was entered wherein the plaintiffs namely, Bal Kishan and Raghunath Dass had admitted that the present petitioner is in possession over the land which he had purchased after the decree was passed. On 23.4.2005, the petitioner who is alleged to be in specific khasra

numbers by virtue of the sale in his favour, sought permission of the Court to file appeal against the *ex parte* decree on the ground that if he is not allowed to challenge the decree then his rights in the ultimate partition would be prejudiced. However, the said application has been dismissed and thus, the present revision petition has been filed.

Learned counsel for the petitioner has argued that there is no dispute that the property purchased by the petitioner was out of the share of Ratni or her legal heirs and therefore, the said sale is not going to effect the share of the plaintiffs about which they have been given *ex parte* declaration by the Civil Court. The only anxiety in the mind of the petitioner is that he should not be dispossessed from the specific khasra numbers given to him at the time of sale.

I have heard learned counsel for the petitioner and after examining the record, am of the considered opinion that until and unless property in dispute, which happens to be agricultural land is partitioned in terms of the provisions of Punjab Land Revenue Act, the petitioner cannot be given specific khasra numbers even if his vendors were occupying the said khasra numbers. However, in any case the petitioner would still be a co-sharer with the plaintiffs and the defendant, who has got the balance land with her, can always set up his right at the time when the application for partition is filed by the children of Nathu.

With these observations, the present petition is hereby disposed of.

**23.01.2015***Vivek***(RAKESH KUMAR JAIN)  
JUDGE**