

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.8056 of 2015
Date of decision: 03.12.2015

Rajinder Singh

... Petitioner

Versus

Dilawar Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sunil Agnihotri, Advocate for the petitioner.

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

ARUN PALLI J. (Oral)

The present revision arises out of an application for injunction, under Order 39 Rules 1 & 2 of the Code of Civil Procedure, moved by the respondent-plaintiff. The injunction prayed for was declined by the trial court, vide order dated 10.12.2012. Whereas, in an appeal preferred against the said order, the appellate court ordered status quo as regards construction over the suit land till the final disposal of the suit land. The reasons, in support of its order, assigned by the appellate court read as thus:

“10. In view of aforesaid discussion, this Court is of the considered view that the impugned order dated 10.12.2012 passed by the learned trial Court vide which stay application has been dismissed, is not according to settled principles of law and same is

perverse. Accordingly, impugned order dated 10.12.2012 passed by the lower Court is set aside and present appeal is accepted with costs and parties are directed to maintain status quo regarding construction over the suit land till final disposal of suit. However, anything observed while passing this order shall have no bearing on the merits of the main case. Memo of costs be prepared. The parties are directed to appear before the learned lower Court on 9.10.2015 for further proceedings...”

Concededly, parties to the lis are co-sharers. Undoubtedly, a co-sharer cannot seek injunction against another co-sharer unless he is proved to be in exclusive possession of a particular portion of the joint land. However, if a co-sharer seeks to raise a construction in the joint holding, and as a result nature and character of the joint land is being altered, then, certainly a co-sharer could ask for a decree for injunction, as else it would amount to ouster of the another co-sharer from the joint land.

No ground is made out to interfere with the order being assailed, in exercise of revisional jurisdiction. Petition being devoid of merit is accordingly dismissed.

December 3, 2015
Rajan

(Arun Palli)
Judge