

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

**R.S.A. No. 439 of 2015 (O&M)
Date of decision:- 03.07.2015**

Gurpreet Singh and another ...Appellants

Versus

Kesar Singh @ Kamaljit Singh & ors.Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ghulam Nabi Malik, Advocate
for the appellants

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J.

This regular second appeal is directed against the concurrent findings of facts recorded by both the Courts below whereby the suit of the plaintiffs-appellants (herein after to be referred as 'the appellants') was dismissed.

The appellants filed a suit for permanent injunction restraining the defendants-respondents from alienating any specific portion of land and also from changing the existing nature of land by digging earth or by raising construction etc, at Fatehpur Dhakk, H.B. No. 244, Tehsil Khanna, District Ludhiana.

Both the Courts have recorded a concurrent finding of fact

that the respondents were in separate possession of the suit land since the year 1960 and are cultivating the land separately. During the proceedings before the trial Court, the respondents have initiated the partition proceedings before the Revenue Court, which was not disputed by the appellants and vide order dated 20.01.2014, the partition proceedings were concluded and the suit land comes in the shares of the respondents. Thus, the parties to the *lis* had partitioned the suit land by way of private arrangement in the year 1960 and the said partition was also sanctioned by metes and bounds by the Revenue Court, the cause of the appellant does not survive for consideration, as the respondents are in the separate exclusive possession of the property and are entitled to enjoy the fruits of exclusive possession. They cannot be prevented from using the property as their liking by issuing injunction.

The only argument of learned counsel for the appellants is that the respondents are setting up brick kiln, which would involve digging up of earth and which will result in lowering the value of the land. The argument of learned counsel for the appellants is liable to be rejected on the ground that once the partition proceedings have been finalised, vide order dated 20.01.2014, the appellants cannot seek permanent injunction against the respondents restraining them from

alienating any specific portion of land and also from changing the existing nature of land.

The judgments passed by both the Courts below, calls for no interference. No substantial question of law arises for adjudication by this Court.

Accordingly, appeal is dismissed.

03.07.2015

G Arora

(**RITU BAHRI**)
JUDGE