

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

COCP No.2921 of 2012
Date of Decision:-27.09.2016

Raj Mehta

..... Petitioner

Vs.

Vishal Mehta and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.R.S. Chahal, Advocate,
for the petitioner.

Mr.Rajesh Sethi, Advocate,
for respondents No.1 to 4 and 6 to 8.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed for the alleged disobedience of the order dated 19.7.2010 passed in CR No.3016 of 2010.

Learned counsel for the petitioner has submitted that the revision was filed against the order passed by the First Appellate Court, dismissing the application of the petitioner filed under Order 39 Rule 1 & 2 of the Civil Procedure Code, 1908 [for short 'the CPC']. It is further submitted that the respondents have raised construction over the land in question and changed its nature.

After notice, respondents have put in appearance.

Learned counsel for the respondents has submitted that the petitioner has filed only suit for permanent injunction against the respondents, who are brothers and sisters of the petitioner. The suit was

filed on the basis of a Will alleged to have been executed by the father of the petitioner. The said suit was dismissed as the Will was discarded. The petitioner filed appeal under Section 96 of the CPC along with the application for temporary injunction under Order 39 Rule 1 & 2 of the CPC. The said application was also dismissed which resulted into filing of CR No.3016 of 2010 in which order dated 19.7.2010 has been passed. It is submitted that the order passed by this Court dated 19.7.2010 was to maintain status quo regarding possession but the petitioner has not been found to be in possession by both the Courts below that is why the application filed for temporary injunction was dismissed. Insofar as the change of nature of property in question is concerned, it is submitted by the respondents that the property was agricultural land and is still recorded in the revenue record as agricultural land and there is no construction over it as stated by the petitioner, who has also lost in the first appeal. However, it is not denied that the second appeal is pending. Otherwise, it is an admitted case that no third party interest has been created.

Keeping in view the aforesaid facts and circumstances, I do not find any merit in the present petition and the same is thus hereby dismissed.

Rule discharged.

(RAKESH KUMAR JAIN)
JUDGE

27.09.2016

Vivek

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No