

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

**CR No.4207 of 2015 (O&M)
Date of decision:19.01.2016**

Bhupinder Singh

Vs.

... Petitioner

Vijay Kumar and others

... 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. Amit Jhanji, Advocate
for the petitioner.

Respondent No.1 in person.

Mr. Ashok Kumar Sharma, Advocate
for respondents No.2 and 3.

AMIT RAWAL J. (Oral)

The petitioner-plaintiff is aggrieved of the impugned orders dated 10.12.2014 and 15.05.2015, whereby, application filed under Order 39 Rules 1 and 2 read with Section 151 CPC in a suit for permanent injunction seeking restraint order against respondent No.1, who is auction purchaser alleged to have purchased unspecified share in property vide sale deed in the auction conducted by the Punjab Financial Corporation (for short 'PFC'), has been dismissed by both the Courts below.

Mr. Amit Jhanji, learned counsel for the petitioner submits

that suit for mandatory injunction had been filed seeking restraint order not to interfere in the peaceful possession, much less, not alienate the suit property, until and unless, the same is partitioned, for which the matter is stated to be pending adjudication before the revenue Court. He further submits that both the Courts below have failed to appreciate that since it is an unspecified share and not specific share, all the co-owners are owners of every inch of land, until and unless, the same is partitioned. At least, the Lower Appellate Court ought to have enjoined the defendants from creating third party rights.

Mr. Vijay Kumar, respondent No.1, who is present in the Court in person, submits that he had purchased the land in the auction conducted by the PFC. Jasbir Singh has taken 4 kanals of joint land on lease from Nasib Singh, co-owner and, therefore, he has rightly become the owner, rightly so the trial Court has declined the injunction.

I have heard learned counsel for the petitioner, as well as, respondent No.1 in person and appraised the paper book.

In a suit for injunction in respect of joint holding against other co-shares, remedy, if any, for a co-sharer is to file suit for partition which is stated to be pending. The petitioner-plaintiff shall be at liberty to seek interim measure/stay in those proceedings and not in the manner and mode which has been adopted.

In view of the aforementioned observations, I do not

intend to differ with the findings rendered in the impugned orders.

Accordingly, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

January 19, 2016
savita