

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

C.R. No.4327 of 2016

Date of Decision.13.07.2016

Darshan Singh

.....Petitioner

Vs.

Jagdish and others

.....Respondents

Present: Mr. K.K. Garg, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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?

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AMIT RAWAL J. (ORAL)

The petitioner-plaintiff is aggrieved of the impugned order passed in suit for permanent injunction whereby the prayer restraining the defendants from raising any construction on any portion of the joint land has been declined.

In fact, the property is owned by the Municipal Council and both the parties are only in possession and therefore, the observation of the trial Court qua granting them liberty to seek for partition of property amongst co-sharers is not correct. The appeal against the order passed by the trial Court is also dismissed by the lower Appellate Court.

The lower Appellate Court ought to have examined the appeal qua easementary violation, encroachment or inteference and not in the manner and mode suggesting for partition of the property amongst the co-sharers when they are actually in possession of the property but not as owners of the property. In order to avoid further delay in disposal of the

matter, I dispense with notice to the respondent and remand back the matter to the lower Appellate Court to consider afresh the matter qua ownership by looking into the revenue record, for, prima facie, it appears that there is misreading of the documents, as concededly, the Municipal Council is the owner of the property.

The impugned orders passed by the Courts below are set aside and the matter is remanded back to the lower Appellate Court to decide the misc. appeal in view of the aforesaid observations. The revision petition is disposed of as above.

(AMIT RAWAL)
JUDGE

July 13, 2016
Pankaj*