

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

**CR No.7250 of 2016
Date of decision:26.10.2016**

Raj Kumar

... Petitioner

Vs.

Narata Ram Saini and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Hem Raj Bhardwaj, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

Petitioner-defendant No.1 is aggrieved of the impugned order dated 14.09.2016, whereby, an application moved by defendants No.3 and 5 for granting them liberty to examine him, has been allowed.

Mr. Hem Raj Bhardwaj, learned counsel appearing on behalf of petitioner-defendant No.1 has brought to the notice of this Court that respondents No.1 and 2/plaintiffs, namely, Narata Ram Saini and Laxmi Devi, instituted a suit seeking possession of the land/plot bearing No.39 situated within khasra no.23/30/1 and also challenged the sale deed bearing No.13685, dated 03.01.1991 executed by defendant No.4 through his GPA (defendant No.5) in favour of defendant No.6 in respect of the land in question and also sale deed bearing No.1529/1 dated 16.09.1998 executed by defendant No.6 in favour of defendant No.1 and General Power of Attorney executed by defendant No.4 in favour of defendant No.5 bearing Deed no.1997/4 dated 28.11.1990 being illegal, null and void.

Keeping in view the aforementioned prayer, no doubt the khasra numbers mentioned therein, defendant No.4 had purchased the land measuring 23//30/1/4 but there is commonality with regard to khasra no.23//30/1/7 *vis-a-vis* defendants No.4 and 1. Thus, there is clash of interest *vis-a-vis* defendant Nos. 1 and 4 and not defendant No.3. The Court below has erroneously allowed the application, particularly of defendant No.3, who is Power of Attorney of defendant No.2 and had acquired the title with regard to khasra no.23//30/1/7. Therefore, there is no commonality as the plots are different and in this background of the matter, pursuing of the application was not sustainable.

I have heard learned counsel for petitioner-defendant No.1 and appraised the paper book and in view of the facts noticed above, particularly khasra number by which defendant No.2 has acquired khasra no.23//30/1/7, the mutation does not reflect any plot number, though sale deed may be, but the fact remains that there is commonality of khasra No.23//30/1/7 *vis-a-vis* defendant No.1 and khasra no.23//30/1/4 of defendant No.4 and Power of Attorneys of defendants No.2 and 4 are defendants No.3 and 5, respectively and therefore, rightly so the application for cross-examination of defendant No.1/petitioner, who is stated to have acquired the ownership of khasra no.23//30/1/4 which has justifiably been allowed and the impugned order, is perfectly legal and justified. The trial Court had actually pondered upon the aforementioned aspect, much less, the impugned order cannot be said to have been passed without jurisdiction.

Accordingly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

October 26, 2016
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No