

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.2833 of 2010 (O&M)

Date of Decision: February 23, 2016

Kalyan Singh and others

...Appellants

Versus

Smt.Dhanno and others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Amit Jain, Advocate,
for the appellants.

Mr.Suresh Ahlawat, Advocate,
for respondent Nos.1 to 6.

AMIT RAWAL, J. (Oral)

Appellant-defendant Nos.1 to 4 are aggrieved of the concurrent findings of fact and law, whereby the suit filed by plaintiffs has been partly decreed by injunctioning the defendants not to interfere in their possession over the suit land by upholding the sale deed dated 1.3.1994 executed by defendant No.5 Bhala in their favour holding it to be of a joint land and not of specific khasra numbers.

Mr.Amit Jain, learned counsel appearing on behalf of the appellant-defendants submits that the plaintiffs, themselves, admitted in the cross-examination, that the defendants are in possession of the property. Even a complaint to this effect was made to the police and, therefore, injunction could not have been granted and the remedy, if any, was to seek the partition either for joint possession or for separate possession.

Mr.Suresh Ahlawat, learned counsel appearing on behalf of plaintiff-respondent Nos.1 to 6 submits that as per the revenue record, plaintiffs have been found to be in exclusive possession and rightly so, the injunction has been granted and law does not prohibit for granting of injunction to a co-owner, who has been found in exclusive possession and the land, vide which the plaintiffs have acquired the title, has already been mortgaged with Teka and Satpal.

This Court, while issuing notice of motion on 25.11.2010, observed that the parties shall maintain status-quo. The order reads thus:-

“Learned counsel for the appellants, inter alia, contends that plaintiff-Badlu Ram (since deceased) has admitted in his cross-examination about the private partition between the parties. Learned Courts below have not considered the said statement on the ground that private partition is not reported to the Revenue Officer. In this regard, he cites judgment of this Court in the case of “Ajmer Singh Vs. Dharam Singh” 2006(2) PLR 25, to contend that if co-owners by mutual consent have entered into separate portions of land and are in the enjoyment of their respective portions, merely the said private partition has not been formally affirmed will not relegate the parties to pre-partition status.

Notice of motion for 05.01.2011.

In the meantime, status quo as it exists today shall be maintained by the parties.”

Since the trial Court has accorded the respondent-plaintiffs the status of co-owner in joint holding, the remedy for the parties is to seek the partition.

It is directed that in case any of the parties moves an application for seeking partition of the joint holding, the competent authority shall decide the same as expeditiously as possible, preferably

within a period of six months after the completion of the pleadings.

Till then, the status-quo as granted by this Court, shall continue to remain in operation.

With the aforementioned observations, the findings regarding the sale deed from the joint holding are affirmed and regarding injunction are modified to the aforementioned extent.

Appeal stands partly allowed.

February 23, 2016
ramesh

(AMIT RAWAL)
JUDGE