

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

1)

**RSA No. 98 of 2016 (O&M)
Date of Decision: 17.03.2016**

Kaur Singh

.....Appellant

Vs.

Malkit Kaur and others

.....Respondents

2)

RSA No. 106 of 2016 (O&M)

Kaur Singh

.....Appellant

Vs.

Gurmit Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Gurbhajneek Singh Samra, Advocate,
for the appellant.

AMOL RATTAN SINGH, J. (ORAL)

These two RSAs No. 98 of 2016 and 106 of 2016 are
being decided by this common order.

Learned counsel for the appellant submits that though
on merits he would have nothing further to say in view of the fact
that the suit was decreed partly in favour of the appellant, to the
extent of his share in the suit land, though he has been held to
be in exclusive possession of the entire suit land; however, he

submits that the land adjacent to the suit land has been acquired for the purpose of widening of the National Highway and as such, further alienation of the property, by respondent No. 3, be stayed.

The said prayer is not entertainable, in view of the fact that once the appeal is not being argued on merits, further alienation by respondent No. 3, to the extent of his own share, obviously cannot be stayed by this Court.

Learned counsel submits that the appellant actually is apprehensive of the 3rd respondent alienating the more valuable part of the suit land, leaving the appellant with the less valuable part of it, thereby creating multiplicity of litigation.

That plea again is not to be looked into by this Court in the present proceedings, in view of the fact that as to what part of the suit land falls to which co-sharer, would be subject matter of any partition proceedings, whether instituted or to be instituted, by the co-sharers and would be eventually decided by the authorities before whom such partition proceedings would be pending, subject to any findings in any suit (including the one out of which these appeals arise).

Per se, no such partition proceedings being subject matter of the suit filed before the Courts below and the appeal before this Court, the said plea is also rejected.

Needless to say, whatever pleas are available to the parties with regard to the partition of the suit land, obviously would be availed of by them and adjudicated upon by the

competent authority/court.

In view of the above, since the appeals are not being argued on merits beyond the above considered contention, as per counsels' statement, the appeals are dismissed, with no order as to costs.

(AMOL RATTAN SINGH)
JUDGE

March 17, 2016
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