

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.3437 of 2017

Date of Decision: 02.08.2017

Gems Buildcon Pvt. Ltd.

.....Petitioner

Vs.

Bhupinder Singh and others.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.A.S.Barnala, Advocate, for the petitioner.

RITU BAHRI, J. (ORAL)

Petitioner has come up in revision against the impugned order dated 09.12.2016 passed by learned Additional District Judge, SAS Nagar, Mohali, whereby, the application under Order 39 Rule 1 and 2 filed by the petitioner has been dismissed.

The brief facts of the case are that plaintiff/petitioner had filed a suit for declaration challenging the order dated 28.02.2014 passed by Assistant Collector Ist Grade, SAS Nagar, Mohali, sannad taksim dated 30.05.2014 and order dated 23.06.2014 passed by him and suit for permanent injunction restraining the respondents/defendant from dispossessing the plaintiff from his share in the property in dispute and from alienating the suit land in any manner. It was pleaded by the plaintiff/petitioner that he purchased the property in dispute vide sale deed dated 15.02.2006 and became co-sharer in possession alongwith defendants. In the partition proceeding filed by defendant/respondent No.1, plaintiff/petitioner was proceeded against ex-parte vide order dated 29.08.2012 which order is illegal. Sannad order dated 30.05.2014 and order dated 23.06.2014 vide which possession of the property has been handed over to defendants No.1 and 2. Learned counsel for the

plaintiff/petitioner submits that defendant No.1 in connivance with Revenue Authorities has been able to get the orders of partition and a fraud had been plaint on him.

Learned trial Court has dismissed the said application on the ground that Section 158 of Punjab Land Revenue Act, 1887, specifically bar the jurisdiction of the civil Courts in matters within jurisdiction of Revenue Officers. Therefore, in view of the above provisions, a civil Court cannot interfere in the proceedings of partition initiated by the revenue authorities. Further the plaintiff /petitioner had alleged that he was proceeded against ex-parte in the partition proceedings. He had an equal efficacious remedy of applying to the Revenue Authorities for setting aside the ex-parte proceedings against him and also for filing appeal to the Appellate Revenue Authority against the orders of Assistant Collector Grade-I, Mohali before approaching the Civil Court.

Learned appellate Court has also upheld the judgment of learned trial Court by observing that defendant/respondents No.1 and 2 have already received the possession out of the suit property from Revenue Authorities as per sannad taksem. Moreover, the petitioner/plaintiff had claimed himself as a co-sharer in the property dispute. But it is well settled law that a co-sharer cannot seek injunction against another co-sharer.

In view of the above, no ground is made to interfere in the impugned order dated 09.12.2016 and the present revision is dismissed as such.

(RITU BAHRI)
JUDGE

02.08.2017
anil

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No