

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

CR No. 3871 of 2015

Date of Decision: 31.10.2017

NAIB SINGH

-PETITIONER

VS

PHINO AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. G.L. Bajaj, Advocate,
for the petitioner.

Mr. P.K.S. Phoolka, Advocate,
for respondents No.2 to 6.

RAJ MOHAN SINGH, J. (ORAL)

[1]. On 21.09.2015, following order was passed:-

“Learned counsel inter alia contends that respondents had filed a suit for declration and permanent injunction against the petitioner and Janda Singh and thereafter, an application under Order 39 Rule 1 and 2 read with Section 151 CPC was filed by the respondents for grant of ad interim injunction for restraining the petitioner from dispossessing them and from alienating any portion inthe suit property measuring 2 kanals 8marla by way of salr,mortgage, transfer, gift and exchange etc in any manner, which was allowed on 31.01.2012 and the trial Court failed to consider the fact

that originally Rattna daughter of Gajjan Singh was owner of the land 406 kanals 11 marlas to whom the land in question was also a part and parcel of the same and after the death of said Rattna, the above said land measuring 406 kanals 11 marla has been inherited by her five sons namely Lal Singh, Mukhtiar Singh, Dara Singh, Gurbachan Singh and Darbara Singh. Mukhtiar Singh sold 1 ½ share out of the said land measuring 02 kanal 8 marlas to the petitioner vide registered sale deed dated 15.07.1993 and mutation has also been sanctioned in favour of the petitioner and even the possession has also been handed over to the petitioner. The above said sale deed and mutation has not been set aside by any Competent Court of law till today.

Notice of motion for 17.11.2015.”

[2]. Evidently, it was prima-facie demonstrated that the petitioner Naib Singh had purchased share of Mukhtiar Singh out of land measuring 02 Kanals 08 Marlas vide registered sale deed dated 15.07.1993. Mutation was also sanctioned in favour of the petitioner and even possession was also delivered.

[3]. Competence of Mukhtiar Singh to sell the alleged share in favour of the petitioner would be gone into by the trial Court. Both the Courts have granted injunction in favour of the plaintiff-respondents without taking into consideration the title of Rattna d/o Gajjan Singh which was subsequently devolved upon

her. Rattna had five sons namely Lal Sing, Dara Singh, Gurbachan Singh, Darbara Singh and Mukhtiar Singh.

[4]. At this stage, when the suit itself is at the fag end, it would be just and appropriate for both the parties to maintain *status quo* regarding possession and alienation of the suit property.

[5]. Nothing observed hereinabove would be construed to be an opinion on ultimate merits of the case. The trial Court shall decide the suit in accordance with law.

[6]. Disposed of.

31.10.2017
jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No