

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.4813 of 2016(O&M)
Date of Decision: 18.07.2017

Ishwar Singh

.....Petitioner

Vs

Dilbagh Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Manoj Sharma, Advocate for
Mr. R.S. Redhu, Advocate
for the petitioner.

Mr. Amit Kumar Jain, Advocate
for respondents No.1 to 3.

RAJ MOHAN SINGH, J.(Oral)

On 29.07.2016, following order was passed:-

“Learned counsel for the petitioner contends that the partition effected by the Revenue Officer was set aside by the Civil Court vide decree dated 29.09.2015. Appeal was filed by the defendant/petitioner in which cross objections were filed by the plaintiff as well. Though the trial Court did not grant any injunction qua construction and alienation, but in the cross objections, the lower Appellate Court issued restraint against the petitioner to raise construction.

Learned counsel for the petitioner further contends that the petitioner being co-sharer is in exclusive possession of the property not exceeding his share and he has already constructed his share in the manner which would not diminish the value of the land in any manner. Injunction cannot be granted at the instance of other co-sharer, rather converse proposition is involved herein because the petitioner being in exclusive possession of the

property not exceeding his share can oust other co-sharer till the land is partitioned by metes and bounds.

Notice of motion for 02.09.2016.

Construction, if any by the petitioner would be subject to final outcome of the suit/appeal.

In the meanwhile, operation of the impugned order shall remain stayed. “

It was observed in the said order that the construction if any, raised by the petitioner would be subject to final outcome of the suit/appeal. Operation of the impugned order was stayed. Admittedly, appeal is pending before the lower Appellate Court.

This revision petition is disposed of by directing the lower Appellate Court to make every endeavour to decide the pending appeal on some early actual date. Till disposal of the appeal, the arrangement made by this Court vide order dated 29.07.2016 shall remain in operation.

Disposed of.

July 18, 2017.

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)

JUDGE

Yes/No

Yes/No