

In the High Court of Punjab and Haryana at Chandigarh

223

CR No.7535 of 2015

Date of decision:18.8.2017

KULWANT SINGH AND ORS

.....petitioners

Versus

JASMINDER KAUR AND ORS

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.H.S.Dhandi, Advocate,
for the petitioners.

Dr.Anmol Rattan Sidhu, Sr.Advocate with
Mr.Rajesh Narang, Advocate,
for respondents No.1 and 2.

RAJ MOHAN SINGH, J.(oral)

This revision petition has been filed by the petitioners challenging the order dated 3.8.2016 passed by the Additional District Judge, Ludhiana, whereby, they were restrained from alienating the suit property during the pendency of the civil suit.

After hearing the arguments from both sides, I find that a suit for joint possession was filed by the plaintiffs-daughters of Kashmira Singh on the basis of their status of coparceners after the amendment in Hindu Succession Act, 1956. Application for grant of interim relief under Order 39 Rule 1 and 2 CPC filed by the plaintiffs was dismissed by the trial Court, however, the lower Appellate Court has restrained the defendants-petitioners from alienating the property as mentioned in the head note of the plaint as A,C,D,E, G(ii), G(iv),

G(vii) and G (viii) till disposal of the suit.

The grievance of the petitioners is that in the event of alleged status of the plaintiffs to be that of coparceners on the basis of amendment in question, they can seek restraint order only to the extent of their shares. To that extent, I find that there is a force in the submissions made by learned counsel for the petitioners.

Learned counsel for the respondents, on the other hand, has submitted that in the event of selling specific khasra numbers by the plaintiffs, necessary clarification be made that the same will amount to sale of shares.

In view of law laid down by this Court in **Bharthu Ram Vs. Ram Sarup, 1981, P.L.J. 204**, the apprehension of learned counsel for the respondents is unfounded. It is a settled proposition of law that in case of joint land, alienation of specific khasra numbers would amount to sale of share till the land is partitioned by metes and bounds.

In view of above, this revision petition is allowed. The impugned order passed by the lower Appellate Court is modified to the extent of restraining the petitioners only to the extent of shares of the plaintiffs in the joint land.

August 18, 2017
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/Speaking

Yes/No

Whether reportable

Yes/No