

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

**CIVIL REVISION NO. 8828 of 2016 (O&M)  
DECIDED ON: JANUARY 09, 2017**

**KULDIP CHAND**

**.....PETITIONER**

**VERSUS**

**AMRIK SINGH AND OTHERS**

**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE JASPAL SINGH**

Present:    Mr. Roshan Lal Batta, Sr. Advocate for  
                 Mr. Mandeep K. Sajjan, Advocate  
                 for the petitioner.

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**JASPAL SINGH, J (ORAL)**

By virtue of instant revision petition preferred under Article 227 of the Constitution of India, petitioner-Kuldip Chand has sought the quashing of order dated July 30, 2016 (Annexure P-10) passed by learned Additional Civil Judge (Sr. Division), Ludhiana with further prayer that respondents be restrained from alienating, transferring, mortgaging and gifting the land in dispute to any person in any manner during the pendency of instant revision petition.

Undisputed facts are that the petitioner-Kuldip Chand filed a suit for possession by way of specific performance of the agreement to sell dated July 22, 1995 in respect of the land measuring 0-4-5 Bigha pukhta out of khasra

Nos. 1135/155, 1137/155, 1140/164, 153, 165, 162, 166, 167, 168 khatta Nos. 270/317, 275/322, Hadbast No. 293 situated in the revenue estate of Village Jhanda, Tehsil and District Ludhiana, which was decreed vide judgment and decree dated June 09, 2006. Since, no appeal was filed against the afore-said judgment and decree, it has attained finality. Subsequent thereto, petitioner-Kuldip Chand preferred an execution application and the executing court after getting deposited the balance sale consideration and the other charges appointed a Local Commissioner for registration of sale deed, as per terms and conditions of the decree dated June 09, 2006. Accordingly, the sale deed was registered on November 26, 2007. However, during the pendency of afore-said execution application, respondent No.1-Amrik Singh filed objection petition alleging that decree dated June 09, 2006 was not executing, it being a result of fraud and connivance of the decree holder and JDs just to grab the property belonging to him (objector).

That objection petition was resisted by decree holder and ultimately, vide impugned order dated July 30, 2016 the objections were allowed, which necessitated the filing of instant revision petition.

While assailing the impugned order dated July 30, 2016, it has been ebulliently argued by learned Senior Counsel for the petitioner that the impugned order dated July 30, 2016 is not legally sustainable, being against the facts as well as the legal proposition applicable to the facts and circumstances of the case in hand. He has submitted that the objector-Amrik Singh did not get either the judgment and decree dated June 09, 2006 or the sale deed dated November 26, 2007 set aside. The petitioner-Kuldip Chand has been held the

owner of the property, as the sale deed has been upheld even while passing the impugned order dated July 30, 2016.

Moreover, neither the petitioner was a party to the partition proceedings nor any notice was given to him with regard to the pendency thereof, either by the objector or by any other person/authority. In fact, respondent No.1-Amrik Singh with *mala-fide* intention got the land, which is the subject matter of the decree dated June 09, 2006 as well as the sale deed dated November 26, 2007 in his share in partition proceedings. He was very well aware about the civil suit filed by the petitioner in the Civil Court at Ludhiana.

While concluding his arguments, learned Senior Counsel for the petitioner submits that on the basis of decree dated June 09, 2006 as well as sale deed dated November 26, 2007, petitioner has become an absolute owner of the property mentioned therein. As such, he is entitled to obtain its possession in execution proceedings.

This Court has given an anxious thought to the submissions made by learned Senior Counsel for the petitioner but find the same without any legal or factual substance.

It is well settled proposition of law that where a co-sharer/co-owner in possession of a specific portion of the joint holding and recorded as such in the revenue record, transfers any right, title or interest, from the portion in his specific possession, his vendee would be entitled to protect the portion so transferred and possessed, till the joint land is not partitioned. Any alienation made by co-sharer of a specific portion to the extent of his share is nothing but a

alienation of his share only and not of any specific area.

To buttress the afore-said observation, we could have the reference of various observations made by a Full Bench of this Court in the case of **Bhartu v. Ram Sarup; 1981 PLJ 204;** which has been subsequently relied upon by a Full Bench of this Court while rendering pronouncement in the case of **Ram Chander v. Bhim Singh & others; 2008 (3) RCR (Civil) 685.**

By now, it is pretty settled that a co-owner has an interest in the entire property and also in each and every parcel of the joint land. When a co-sharer alienates his share or a part thereof in the joint holding the purchaser or vendee only gets an undivided interest in the joint property. Thus, a sale of land from a specific khata would be in view of the nature of rights conferred upon a co-sharer irrespective of the artificial divisions of the joint land into different rectangles, khasra and killa numbers. Similarly, where a co-owner in possession of a specific portion of the joint holding alienates or transfers any rights, title or interest, from the portion in his specific possession, his vendee would be deemed to be the owner of the said portion so transferred and possessed, as the exact rights and liabilities of the co-sharer in the joint holding are to be determined during the partition proceedings.

Adverting to the facts of the case in hand after getting the sale deed dated November 26, 2007 executed, petitioner-Kuldip Chand has only become a co-sharer in the joint holding. He cannot claim possession of a specific portion. It is an admitted fact that when the partition proceedings culminated, the suit for specific performance was pending. It cannot be said that petitioner-Kuldip Chand was not aware of those proceedings. There is also no necessity for the

respondent No.1-Amrik Singh (objector) to get the sale deed dated November 26, 2007 or the decree dated June 09, 2006 set aside and the objection petition preferred by him was legally maintainable. Otherwise also, petitioner could not point out any illegality or legal flaw in the impugned order dated July 30, 2016.

Accordingly, instant petition being devoid of any merits stands dismissed.

**JANUARY 09, 2017**  
**sham**

**(JASPAL SINGH)**  
**JUDGE**

Whether speaking/reasoned                      Yes/No

Whether reportable                                Yes/No