

**117 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

ESA No. 26 of 2017

Date of Decision: 07.07.2017

AMRIK SINGH AND ANR

-APPELLANTS

VS

IQBAL SINGH AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Janak Singh Bhinder, Advocate,
for the appellants.

RAJ MOHAN SINGH, J. (ORAL)

Counter claim of the defendants was decreed in a suit of the plaintiffs in which the same was set up. Objections were filed by the plaintiffs-judgment debtors in execution of the counter claim on the ground that counter claimants No.5,6, 10 to 12 have already sold their shares on 10.04.2012 and the share of one dead person namely Paramjit Singh was sold for which FIR No.97 was registered on 07.07.2012.

Judgment debtors No.1 and 4 also raised a plea that decree holders were not the owners of the property. As a matter of fact, in the suit proceedings, possession of the plaintiffs-judgment debtors in counter claim was found to be illegal. The Executing Court dismissed the objection on the ground that even one of the counter claimant could maintain suit on behalf of all the other co-

sharers/counter claimants. Therefore, the objections raised by the plaintiffs-judgment debtors are not sustainable. The order passed by the Executing Court dismissing the objection was further upheld by the lower Appellate Court.

Having considered the plea raised by learned counsel for the petitioner, I do not see any illegality in the order passed by the courts below. The possession of the plaintiffs-judgment debtors was found to be illegal. After dismissal of the suit and decree of the counter claimant, the plaintiffs did not venture to challenge the same in appropriate forum. The decree of counter claimant has already attained finality. The dispute if any can be raked inter-se between counter claimants. Plaintiff has no right to question the alleged illegality in selling the land of one of the counter claimant by other counter claimants. For any mis-conduct inter-se between the counter claimants, law will take its own course.

In view of above, this appeal is dismissed.

07.07.2017
jyoti Y.

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No