

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

239

CR no.3851 of 2017

Date of Decision: 07.03.2019

Jagga Singh and another

...Petitioners

Vs.

Jobanjit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. J.S. Brar, Advocate, for the petitioners.
Mr. R.K.S. Brar, Advocate, for respondents no.1 to 6.

Amol Rattan Singh, J (Oral)

By this petition, the petitioners challenge the order of the learned appellate court passed in an appeal filed by the respondents against the order of the trial court granting ad interim injunction to the petitioners (plaintiffs in the suit), on an application filed under Order 39 Rules 1 and 2 of the CPC.

Vide the impugned order dated 10.04.2017, the interim injunction granted has been set aside, with the said application having been dismissed by the appellate court.

The petitioners claimed to be coparceners in the suit land and therefore have challenged the alienation thereof, only to the extent of their share, (claimed to be a 55/80th share therein). They thus seek a declaration to that effect, notwithstanding mutations sanctioned otherwise.

Whether or not the petitioners can prove any such coparcenary interest in the suit naturally would be a matter of evidence to be led before

the trial court, but the suit property otherwise not denied to have been originally in the hands of the grand father of the petitioners, Nand Singh, in my opinion the learned appellate court should not have reversed the order of the trial court granting injunction to the petitioners to the extent that they be not dispossessed from the suit property, such possession also admittedly being with them, because in partition proceedings the respondents obtained a warrant of possession to so dispossess them.

With Mr. Brar, learned counsel for the respondents very fairly submitting that the trial is at its fag end, and this Court in any case having directed that *status quo* be maintained (at the time when notice of motion was issued on 26.05.2017), keeping all factors in view, in my opinion, this petition deserves to be allowed.

Consequently, the petition is allowed, with the impugned order dated 10.04.2017 set aside and that of the trial court restored, with the trial court however directed to ensure that the proceedings in the suit itself are concluded within a period of four months from today.

Nothing stated herein above would be construed to be a comment on the merits of the case for or against the petitioners, which would be gone into by the trial court on the basis of the evidence led before it by either party.

07.03.2019

vcgarg

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes
Whether reportable : No