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

**Civil Revision No.7992 of 2018 (O&M)
Date of Decision: 29.05.2019**

Rohtash

.....Petitioner

Vs

Suresh and others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. S.K. Tripathi, Advocate
for the petitioner.

Mr. Ajay Jain, Advocate
for respondents No.1 to 12.

Mr. Satish Singla, Advocate
for respondent No.13.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition against the order dated 20.01.2018 passed by the Addl. District Judge, Rewari confirming and upholding the order dated 19.03.2016 passed by the Civil Judge (Jr. Divn.), Rewari in an application under Order 39 Rules 1 and 2 CPC.

[2]. Perusal of the record would show that the plaintiff/petitioner filed a suit for permanent injunction and declaration. Along with the suit an application under Order 39

Rules 1 and 2 CPC was also filed.

[3]. Plaintiff stated that his uncle Roop Chand got executed a release deed in respect his share in favour of Rohtash, Suresh and Ravinder sons of Ram Saroop, Narinder and Naresh sons of Surender son of Ram Saroop, Maya d/o Ram Saroop, Bhor Devi @ Bhateri Devi w/o Ram Saroop in 1/6th equal shares. Plaintiff and proforma defendants have their own shares including the tubewell and electricity connection. Partition has not been finally effected between the parties/co-sharers.

[4]. Plaintiff sought to restrain the other co-sharers on the ground that he had cultivated the wheat crop and defendants were not allowing him to cultivate his crops, therefore, the crops were going to be damaged. In nutshell, the allegation of the plaintiff was that the defendants were restraining him to use the tubewell. Factum of paying electricity bills would be decided by the trial Court in the light of denial to that effect by the defendants.

[5]. It is a settled principle of law that in case of co-sharers, no injunction can be granted against a co-sharer, who would be deemed to be in joint possession over every inch of the land, till the land is partitioned by metes and bounds. Factum of payment

of bill has not been mentioned by the plaintiff in the plaint with reference to the date on which the said payment was made. Even there is no confirmation that the plaintiff is paying the electricity bill according to his share. The production of any electricity bill at this stage cannot be appreciated for want of pleadings to that effect. Admittedly, no partition has taken place.

[6]. In view of law laid down in **Sant Ram Nagina Ram vs. Daya Ram Nagina Ram, AIR 1961 Punjab 528; Bhartu vs. Ram Sarup, 1981 PLJ 204 (Full Bench)** and **Ram Chander vs. Bhim Singh and others, 2008(3) RCR (Civil) 685**, no injunction can be granted against a co-sharer, who is in joint possession of the property. Plaintiff has not pleaded his exclusive possession over the joint land or the tubewell in question.

[7]. In view of aforesaid, *prima facie* the findings recorded by the Courts below cannot be faulted with. This revision petition is accordingly dismissed.

May 29, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No