

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-2601-2019 (O&M)

Date of decision: 08.07.2019

Pritam Singh

...Appellant

V/s.

Ved Parkash and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Jagjit Gill, Advocate for the appellant.

RITU BAHRI, J. (Oral).**CM-7088-C-2019**

Application is allowed and the delay of 227 days in filing the appeal is condoned.

RSA-2601-2019 (O&M)

The appellant/plaintiff has come up in appeal against the judgment of lower appellate Court dated 29.05.2018 whereby appeal filed by the defendants had been partly allowed, suit of the plaintiff had been partly decreed and the defendants were at liberty to transfer their share alongwith possession and further they were restrained from getting the sale deed registered regarding transferring of specific portion of their share.

Learned counsel for the appellant/plaintiff contends that till the partition proceedings are not completed, the defendants cannot be given liberty to transfer their share/possession by way of sale deed. This argument has been considered by the lower appellate Court. The lower appellate Court has followed the judgment in the case of **Ram Kumar V/s.**

Naresh Kumar 2015(4) the Punjab Law Reporter Vol. CL XXX49 wherein

it has been held that a purchaser from co-owner will always step into shoes of alienating co-owner and will be entitled to the same right of joint possession as the vendor had. The appellants/vendors in the present case could sell land of their share and after sale, the purchaser would step into their shoes and will acquire the same rights of joint possession. Further reference has been made to ***Gurdeep Singh V/s. Kulwant Singh and others*** 2018(1) Civil Court Cases 546 (P&H) wherein it has again been reiterated that sale of specific portion of land made by co-sharers would amount to sale of only a share in the joint land.

In view of the judgments referred above, the plaintiff could not restrain defendants from selling their portion of joint land to a purchaser and civil Court cannot restrain defendants from selling land in their possession. The judgment of the trial Court has been rightly modified by the lower appellate Court. No ground is made out to interfere in the concurrent findings given by the lower appellate Court.

Dismissed.

Pending application, if any, also stands dismissed.

08.07.2019
Divyanshi

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

:
:

Yes/No
Yes/No