

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

219

CR No.6200 of 2017

Date of decision : 17.01.2020.

Satpal Singh and another

... Petitioners

Versus

Baldev Singh

.. Respondent

CORAM :HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Shubham Goyal, Advocate for the petitioners.

Mr. Malkeet Singh, Advocate for the respondent.

Anupinder Singh Grewal, J. (Oral)

The petitioners have impugned the order dated 19.09.2016 whereby an application of the respondent under Order 39 Rules 1 and 2 CPC has been allowed as well as the order dated 01.04.2017 passed by the Appellate Court whereby the appeal preferred by the petitioners there against had been dismissed.

Learned counsel for the petitioners contends that the petitioners were in exclusive possession of the land which was jointly owned by them and the defendant and therefore, the injunction could not have been granted by the Courts below. He also contends that the land had been partitioned on the basis of oral partition and the petitioners were well within their rights to carry out construction on the land in their share.

Learned counsel for the respondent, on the contrary, contends that the land in dispute was jointly owned by the petitioners and the respondent and they were in joint possession of the same. He also contends that the land had not been partitioned and therefore, the petitioners have been rightly enjoined

from raising any construction on the land.

Heard.

The respondent had filed a suit for permanent injunction restraining the petitioner-defendants from raising construction thereon. The suit land was jointly owned by both the parties and their possession was also joint. The petitioners are claiming exclusive possession on the basis of entry made in *khasra girdawari* vide rapat no.798 on the basis of an order passed by the Assistant Collector, Grade-II, Bholath, on 03.05.2010. However, it is borne out from the material on record that the order had been obtained by the petitioner-defendants *ex parte* and had been passed against one-Mohinder Singh. The respondent-plaintiff, namely, Baldev Singh was not a party in that matter and therefore, he was not bound by that order. It is also manifest that the petitioners are seeking exclusive possession on the basis of oral partition. However, it has been noticed by the Courts below that there is no entry in the revenue record with regard to the oral partition. Moreover, the land in dispute is stated to be agricultural and therefore, the petitioners could not raise any construction without partition of the land.

Consequently, I do not find any manifest illegality in the orders of the Courts below granting temporary injunction under Order 39 Rules 1 & 2 CPC.

The petition stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

January 17, 2020
sonia gugnani

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No