

CR-1160-2021(O&M)
Date of Decision:- 06.09.2021

ROHIT

...Petitioner

Versus

RAJESH SETHI AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL**Present:** Mr. Pankaj Bali, Advocate with
Mr. Deepak Sharma, Advocate
for the petitioner.Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Harmeet Singh, Advocate
for Caveator/respondents.**SUDHIR MITTAL, J.(Oral)**

The plaintiff has filed this revision petition because his application under Order 39 Rules 1 and 2 CPC has been dismissed and appeal thereto has also been dismissed.

The plaintiff filed a suit for permanent injunction on the ground that he was owner in possession of a plot measuring 0 kanal 6 marlas comprised in khewat No.21, Khatoni No.34, killa No.4//25/2, total area 5 kanals 19 marlas i.e. 6/119 share, by virtue of a registered transfer deed dated 21.10.2020. Although the transfer was of a share, he was given specific possession of the land because the transfer deed recited the boundaries thereof. The said transfer deed was executed by his father Om Parkash son of Narayan Dass. The said Om Parkash had sold 9 marlas out of the same Killa No.4//25/2 to the defendants vide registered sale deed dated 12.12.2013. They have now started interfering in the specific possession of the plaintiff and thus the suit was filed.

Both the Courts below have found that by virtue of the transfer deed dated 21.10.2020, the plaintiff-petitioner became a co-sharer in killa

No. 4//25/2 and being a co-sharer was not entitled to injunct the other co-sharer.

Learned counsel for the petitioner has argued that the plaintiff-petitioner was in possession of specific area out of killa No.4//25/2. Thus, he was entitled to protect his possession. The Courts below have erred in concluding that by virtue of the sale deed, he has only become a co-sharer. Undoubtedly, he has become a co-sharer but he is also in possession of a specific parcel of land, and thus, he can restrain other co-sharers from interfering in his specific possession.

Apart from the oral statement of counsel, the record does not support the factum of specific possession of a parcel of land.

Thus, there is no merit in the revision petition. The same is dismissed.

06.09.2021

Neelam

**(SUDHIR MITTAL)
JUDGE**

Whether speaking /reasoned

Yes/No

Whether Reportable

Yes/No