

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

CR-10-2021.

Date of Decision:-07.01.2021.

Jaspal and others

..... Petitioners

Versus

Puran Ram and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Ms. Manpreet Kaur, Advocate for the petitioners.

Mr. Vikas Mehsempuri, Advocate for the
caveators-respondents.

SANJAY KUMAR, J. (Oral)

By way of this revision, filed under Article 227 of the Constitution of India, the plaintiffs in CS No.847 of 2017 on the file of the learned Civil Judge (Junior Division), Patiala, assail the order dated 23.11.2020 passed by the learned Additional District Judge, Patiala, in AO No.21 of 2018, whereby the interim order of *status quo* dated 04.01.2018 passed by the trial Court was set aside.

Parties shall be referred to hereinafter as arrayed in the suit.

The plaintiffs filed the suit in CS No.847 of 2017 for a permanent injunction restraining the defendants from interfering with the suit property. According to them, their father was a co-sharer/co-owner along with defendant No.1 and others in the land admeasuring 124 *kanals* 7

marlas situated at Village Sassi Brahmna, Patiala. Their father initiated partition proceedings which culminated in the order dated 20.03.2009 of the Assistant Collector, Ist Grade, Patiala, whereby the suit property fell to the share of the plaintiffs. A *Sanad Takseem* was issued on 20.04.2009. Possession was however not delivered. The appeal filed by the defendants against the order dated 20.03.2009 was dismissed by the Sub-Divisional Magistrate, Patiala, on 18.06.2010 and their revision was dismissed by the District Collector, Patiala, on 27.09.2011. Thereafter, the Commissioner, Patiala Division, dismissed their further revision on 24.09.2013 and they approached the Financial Commissioner (Revenue), State of Punjab. The Financial Commissioner ultimately set aside the partition proceedings and all consequential proceedings, *vide* order dated 04.12.2017, and remitted the matter to the Assistant Collector, Ist Grade, Patiala, for consideration afresh.

While so, the trial Court opined that as the partition proceedings were still pending, the plaintiffs would suffer irreparable loss and injury if the defendants changed the nature of the suit property and directed *status quo* to be maintained as regards the nature of the suit property pending the suit.

However, in appeal, the learned Additional District Judge, Patiala, observed that co-owners would be in joint possession of the property and every such co-owner would have a right to use such joint property. Pointing out that such joint holding of the property would continue till partition takes place in accordance with law, the Appellate Court noted that one co-owner could not injunct another co-owner from

enjoying the property while it stood joint. Holding so, the Appellate Court set aside the *status quo* order passed by the Trial Court.

In the light of the aforestated facts, it is clear that the earlier partition proceedings have been set at naught and cannot be acted upon as on date. The plaintiffs seem to have assailed the order dated 04.12.2017 passed by the Financial Commissioner, Punjab, before this Court in **CWP-19006-2018** and operation thereof was stayed pending disposal of the said writ petition. However, the said stay order would not have the effect of reviving the partition effected by the Assistant Collector, Ist Grade, or the proceedings passed thereon. As on date, the plaintiffs do not have a *prima facie* case or claim in relation to a particular identifiable extent out of the jointly held land so as to claim exclusive rights and seek protection thereof. That being so, this Court finds no grounds to interfere with the cogent and well-reasoned order passed by the Appellate Court, presently under revision.

The revision is accordingly dismissed.

No order as to costs.

(SANJAY KUMAR)
JUDGE

January 07, 2021.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.