



Present: Shri Krishan Sharma, Ld. counsel for the plaintiff.
 Shri Rajesh Kumar Yadav, Ld. counsel for the defendant
 No.1
 Defendant no.2 already exparte.

Today the matter was fixed for arguments on stay application. It has been argued on behalf of applicant/plaintiff that plaintiff is the owner in possession of the land/plot measuring 5 marlas 5 sarsai comprised in khewat No.73 khatoni no.101, khasra no.33//29/3 total measuring 1 kanal 2 marlas in view of the sale deed bearing no.751 dated 27.9.2018 and its mutation. Further, it has been argued that earlier other co-sharer namely Smt. Nirmla Devi and others had filed a suit for partition qua the suit property against the State of Haryana in which the preliminary as well as final decree was passed. Thereafter, Local Commissioner was appointed and the total land was partitioned amongsts the co-sharer. Further, the mutation of partition and delivery of possession was also made as per the mutation of partition. Plaintiff/applicant is the subsequent purchaser of a share in the land which was partitioned and now he wants to raise boundary wall over the said plot, however, the defendants are the stranger and having no concern with the suit property and they are interfering in the

construction work of the plaintiff which they have no right. Accordingly, a prayer for restraining the defendant from interfering into the construction work of the plaintiff, has been made.

Per-contra, it has been argued that the delivery of possession still has not been made in the partition suit alleged by the plaintiff and that the execution proceedings has been stayed by the Hon'ble Punjab and Haryana High Court, Chandigarh vide order dated 17.10.2018 passed in CM-16071-72-C-2018 IN RA-112-C-2017 IN RSA-3119-2009. Further, it has been argued that suit land is owned by the State of Haryana and the M.C. Loharu and that the plaintiff has no concern with the same. Accordingly, a prayer for dismissal of the stay application, has been made.

Heard. Alongwith written statement, defendant has placed on record the copy of the order passed by the Hon'ble Punjab and Haryana High Court, Chandigarh dated 17.10.2018 vide which the execution proceedings as stated earlier, have been stayed. Since the Hon'ble Punjab and Haryana High Court, Chandigarh is seized of the matter, therefore, I do not deem it appropriate to pass any order in the matter in hand. Application disposed of accordingly.

Now, case is adjourned to **17.4.2019** for filing replication.

Date :16.02.2019
Name of St: Sanjay Kumar

(Jetin Gujral)
Additional Civil Judge (Sr. Divn)
Loharu/UID No. HR0327