

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Revision Petition No. 153/2022

Sardar Singh S/o Shri Murlidhar Mangawa

-----Petitioner

Versus

Radha Ballabh & Ors.

-----Respondents

For Petitioner(s) : Mr. Ajay Gupta

For Respondent(s) : Mr. Dinesh Kala

HON'BLE MR. JUSTICE SUDESH BANSAL
Order

28/09/2022

Having heard the counsel for both parties, it is transpired that the petitioner-Sardar Singh has purchased the suit shop through registered sale deed dated 18.01.2006 (Annex.3) from one of the decree holders-Radha Ballabh through his power of attorney holder and is in possession of the shop. It appears that in one suit for redemption for the shop in question, a joint preliminary decree was passed on 10.12.1985 and final decree was passed on 08.01.1986. Those decree holders have instituted execution petition No.03/1986 including Sh. Radha Ballabh and procured a warrant for possession, whereas one of decree holders-Radha Ballabh had transferred the possession to the petitioner through registered sale deed dated 18.01.2006.

Apart from above legal proceedings, another proceeding by way of filing a civil suit for partition, declaration and permanent injunction bearing CIS No.26/2006 has been filed wherein the suit shop is also included in properties in question and Radha Ballabh (co-decree holder) as well as the petitioner (purchaser) are also party as defendant No.1 and defendant No.7. This partition suit

has been preferred by other co-decree holders, namely, Radha Kishan and Others wherein the sale deed of petitioner dated 18.01.2006 is also under challenge. It is not in dispute that in subsequent partition suit, in the application for temporary injunction bearing No.34/2006, titled as Radha Kishan Versus Radha Ballabh, vide order dated 12.09.2006, an order of status quo has been passed, which is in effect and operation.

In the aforesaid factual matrix, it is clear that unless and until, co-decree holders do not succeed in their subsequent civil suit for partition, declaration and permanent injunction bearing No.26/2006, more particularly, in getting declaration of sale deed of petitioner as null and void, they are not entitled to proceed for the execution of the decree for redemption, to take possession of the suit shop from the petitioner, who has purchased the suit shop from one of the co-decree holder.

Admit.

Mr. Dinesh Kala has appeared and accepts notice on behalf of respondent Nos. 2/1 to 2/8, 3/1 to 3/5 and 4 & 5.

On the request of counsel for the petitioner, service of notice upon respondent Nos.6 to 15 is dispensed with, as he submits that they have not contested the application filed by the petitioner under Section 47 CPC.

Hence, notice be issued only to respondent Nos.1/1 to 1/4.

In the meanwhile, further proceedings of execution petition No.23/1998(3/1986) pending before the Civil Judge, Srimadhopur, District Sikar shall remain stayed.

(SUDESH BANSAL),J