

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB
SCO No. 95-98, Bank Square, P.F.C Building, Sector-17-B, Chandigarh

Subject: -

APPEAL NO.66 of 2024

M/s Silver City Themes Through Raj Kumar Sharma (Sr. General Manager) Son of Mr. Kushal Kishor, Office Address Plot No.101-A, Silver City Main Ambala Highway, Zirakpur, Mohali.

...Appellant

Versus

1. Raman Sharma Through his GPA Manbir Singh, Resident of 1690, Sector 33-D Chandigarh, Pin Code 160022, Email:- aman820preet@gmail.com Mob:-8699062216 Office Address 1736, Sector-34 Market Road, 34-D Chandigarh, Pin Code 160022.
2. Rajiv Sagar Through its GPA Manbir Singh, Resident of 1690, Sector 33-D Chandigarh, Pin Code 160022, Email:- aman820preet@gmail.com Mob:-8699062216 Office Address 1736, Sector-34 Market Road, 34-D Chandigarh, Pin Code 160022.
3. Gurjeet Kaur Through its GPA Manbir Singh, Resident of 1690, Sector 33-D Chandigarh, Pin Code 160022, Email:- aman820preet@gmail.com Mob:-8699062216 Office Address 1736, Sector-34 Market Road, 34-D Chandigarh, Pin Code 160022.

....Respondents

Memo No. R.E.A.T./2024/No. 466

To,

**REAL ESTATE REGULATORY AUTHORITY, PUNJAB 1ST FLOOR,
BLOCK B, PLOT NO.3, MADHYA MARG, SECTOR-18,
CHANDIGARH-160018.**

Whereas appeal titled and numbered as above was filed before the Real Estate Appellate Tribunal, Punjab. As required by Section 44 (4) of the Real Estate (Regulation and Development) Act, 2016, a certified copy of the order passed in aforesaid appeal is being forwarded to you for uploading the same on website.

Given under my hand and the seal of the Hon'ble Tribunal this 19th day of December, 2024.

(Signature)
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB



IN THE PUNJAB REAL ESTATE APPELLATE TRIBUNAL,
CHANDIGARH

APPEAL NO. 66 OF 2024

MEMO OF PARTIES

M/S SILVER CITY THEMES THROUGH RAJ KUMAR SHARMA (SR. GENERAL
MANAGER) SON OF MR. KUSHAL KISHOR, OFFICE ADDRESS PLOT NO. 101-
A, SILVER CITY MAIN AMBALA HIGHWAY, ZIRAKPUR, MOHALI.

...APPELLANT

VERSUS

1. RAMAN SHARMA THROUGH HIS GPA MANBIR SINGH RESIDENT OF 1690,
SECTOR 33-D CHANDIGARH, PIN CODE 160022, EMAIL:-
AMAN820PREET@GMAIL.COM MOB:- 8699062216 :-OFFICE ADDRESS 1736,
SECTOR-34 MARKET ROAD, 34-D CHANDIGARH, PIN CODE 160022
2. RAJIV SAGAR THROUGH ITS GPA MANBIR SINGH RESIDENT OF 1690, SECTOR
33-D CHANDIGARH, PIN CODE 160022, EMAIL:-
AMAN820PREET@GMAIL.COM MOB:- 8699062216 :-OFFICE ADDRESS 1736,
SECTOR-34 MARKET ROAD, 34-D CHANDIGARH, PIN CODE 160022.
3. GURJEET KAUR THROUGH ITS GPA MANBIR SINGH RESIDENT OF 1690,
SECTOR 33-D CHANDIGARH, PIN CODE 160022, EMAIL:-
AMAN820PREET@GMAIL.COM MOB:- 8699062216 :-OFFICE ADDRESS 1736,
SECTOR-34 MARKET ROAD, 34-D CHANDIGARH, PIN CODE 160022.

..... RESPONDENTS

PLACE: CHANDIGARH
DATED: 10-07-2024

L.S.H.



REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH

APPEAL NO.66 of 2024

M/s Silver City Themes Through Raj Kumar Sharma (Sr. General Manager) Son of Mr. Kushal Kishor, Office Address Plot No.101-A, Silver City Main Ambala Highway, Zirakpur, Mohali.

...Appellant

Versus

1. Raman Sharma Through his GPA Manbir Singh, Resident of 1690, Sector 33-D Chandigarh, Pin Code 160022, Email:- aman820preet@gmail.com Mob:-8699062216 Office Address 1736, Sector-34 Market Road, 34-D Chandigarh, Pin Code 160022.
2. Rajiv Sagar Through its GPA Manbir Singh, Resident of 1690, Sector 33-D Chandigarh, Pin Code 160022, Email:- aman820preet@gmail.com Mob:-8699062216 Office Address 1736, Sector-34 Market Road, 34-D Chandigarh, Pin Code 160022.
3. Gurjeet Kaur Through its GPA Manbir Singh, Resident of 1690, Sector 33-D Chandigarh, Pin Code 160022, Email:- aman820preet@gmail.com Mob:-8699062216 Office Address 1736, Sector-34 Market Road, 34-D Chandigarh, Pin Code 160022.

....Respondents

Present: - Mr. Lokesh Sharma, Advocate for the Appellant
Mr. MS Saini, Advocate for the Respondent.

QUORUM: SH. S.K. GARG DISTT. & SESSIONS JUDGE (RETD.), MEMBER (JUDICIAL)

DR. SIMMI GUPTA, IRS (IT), CHIEF COMMISSIONER OF INCOME TAX (RETD.) MEMBER (TECH./ADMN.)

JUDGMENT: DR. SIMMI GUPTA, IRS (IT), CHIEF COMMISSIONER OF INCOME TAX (RETD.) MEMBER (TECH./ADMN.) (ORAL)

ISSUE

1. The facts of the case are that M/s Silver City Housing and Infrastructure Limited are in the process of developing of a project for which purpose they have duly registered their project with RERA. A complaint was raised by the respondent before the Authority that the

APPEAL No.66 OF 2024

2

land on which the project is being raised includes the land of the respondent measuring 2 Kanal 4 Marlas which is unpartitioned land out of total land area measuring 181 Kanals 9 Marlas. The total land holding has not been partitioned and the partition suit is pending before the appropriate authorities. On this basis the respondent had filed a complaint before the RERA for cancellation of registration and for restraining the society from selling advertising or mortgaging any unit of the land as part of the land is owned by him. On the basis of this fact, that the land in question was un-partitioned land, the society was not in exclusive possession of the entire land, and was unable to demarcate the specified portion of the land of the complainant, the Authority issued an Order dated 14.06.2024 to keep on hold the commercial inventory equivalent to 2 Kanal and 4 Marlas till the specific location of the area of the complainant is decided in the land in dispute and not to advertise, market, book, sell or offer for sale the same in any manner.

2. The appellant filed an appeal against the aforesaid Order dated 14.06.2024 with a prayer to set aside the order of the authority. The main grounds raised by the appellant was that the respondent had given different affidavits regarding the physical possession of his land. The respondent had also moved an application for stay before the Court where the partition proceedings were pending but no such stay has been given by the Court. Even, the prayer for injunction was declined by the Civil Courts. The appellant claimed that it had only raised its project in its share of land for which it had physical possession and for which it had duly registered sale deed over an area of 144 Kanals.
3. The respondent on the other hand raised the issue that partition of the land has never been finalized till date and the specified place where the land of the respondent was located has still not been



APPEAL No.66 OF 2024

3

demarcated and partitioned. Thus, the appellant did not have right to sell the specified units to the third parties.

Decision

1. Admittedly, the appellants purchase the land measuring 145 Kanals 9 Marlas from different co-sharer vide six sale deeds which have been placed on the file vide Diary No.547 dated 25.11.2024. A perusal of the sale deeds would show that the aforesaid land had been sold out of the total land measuring 181 Kanals 9 Marlas and the vendors have not transferred any specific share but have transferred their share only.
2. Although, it has been mentioned in these sale deeds that possession has been delivered of the specific lands but apart from the bare recitals in this regard in these sale deeds there is absolutely no other evidence on record that the actual possession was ever delivered to the appellants. Even there is nothing to establish on record that the vendors of the appellant were in exclusive possession of the land in question and thus, were not in a position to hand over the possession of the specific area of the land to the appellants. There is nothing on record that any tatimas were ever prepared at the time of the registration of the sale deeds or at the time of sanctioning of mutations so the appellant cannot claim themselves to be an exclusive possession of the land measuring land 141 Kanals 9 Marlas purchased by them unless and until the entire joint land measuring 181 Kanals 9 marlas is partitioned. It has been held in Authority titled as **Ram Murti Vs Prem Kumar 2011 2 Civil Court Cases 570** that "co-sharer can transfer his undivided share but no possession can be handed over unless the property is partitioned by meets and bounds amicably, through mutual consent or by a decree of the Court. Another Authority on this point is Sarwan Singh & Anr. Vs Puran Singh 2015 2 PLJ 611. Much stress has been laid down by the learned counsel of the appellant that no stay



APPEAL No.66 OF 2024

4

has been granted by the Civil Courts to the respondents in the previously instituted Civil Suits by him. Of course the stay application filed by the respondents in those civil suits has been dismissed but the same has no effect on the merits of the case because it is settled law that no injunction can be granted against the co-sharer. The only efficacious remedy available to a co-sharer is to seek partition of the joint property. In this case partitioned suit to partition the share of the respondent out of the joint land has been pending for the last more than 4 years. It has been disclosed that it has now been pending for awaiting the report of the Local Commission for which his bailable warrants have already been issued. It appears that the partitioned suit is at the final stage and will likely to be decided shortly.



3. In this view of the matter, the appellants have rightly been directed to keep on hold the commercial inventory equivalent to the land owned by the respondent till the specific location of the area of the complaints/respondents is decided. There is no scope of interference in a finding of the Ld. Authority, therefore, the appeal is dismissed.

Sd/-
S.K. GARG, D & S. JUDGE (RETD.)
MEMBER (JUDICIAL)

Sd/-
DR. SIMMI GUPTA, IRS (IT)
CHIEF COMMISSIONER OF INCOME TAX (RETD.)
MEMBER (TECH./ADMN.)

December 19, 2024
Vishal

Certified To Be True Copy
Shanwar Kaur
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

Shweta Shrivastava
19/12/2024