

Mr. Sandeep Yadav, for the petitioner. Ms. Sehaj Sandhwalia, for Resps

Civil Procedure Code 1908 (V of 1908) Section 151 Order 39, Rules 1, 2 - Co-sharers - Suit property is part of a larger area owned by different brothers after inheritance from their father and that the Company is purchaser from one of the cosharers and it is not a case where the plaintiffs/petitioners claimed that they are in exclusive possession of the property in question to the exclusion of other co-sharers and, therefore, all the co-sharers including the Company are deemed to be in possession of the shares and there is no element of ouster brought to the notice - Right title if any of the plaintiff/petitioners is determinable only upon partition and which is yet to be undertaken - Mere raising of construction on joint property by one of the co-sharers cannot be termed to be an act of ouster of other co-sharers - Lower Court granted status qua Appellate Court set aside the order - Order upheld.

[2022 PLRonline 2570](#)

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