

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

RSA No. 1386 of 2012 (O&M)

Date of decision : 4.8.2015

Hari Singh

.. Appellant

versus

M/s Pal Spinners and others

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Naveen Sharma, Advocate for
Mr. Vikram Singh, Advocate, for the appellant.

Rajesh Bindal, J.

The plaintiff is in appeal against concurrent findings of fact recorded by both the Courts below whereby the suit filed by him was partially decreed.

In the case in hand, the appellant filed a suit for declaration claiming that he is co-sharer in the suit property. Challenge was also made to the mutation sanctioned in favour of respondent no.1/ defendant no.1 claiming that mutation has been sanctioned pertaining to the area more than what he had purchased. Mandatory injunction was also sought for demolition of the construction raised by the respondents on the part of the land. Both the Courts below found that vendor to the defendants was fully competent to sell 18 kanals 19 marlas of land to them as per his share in the suit property. The prayer for mandatory injunction was declined on the ground that the construction was raised way back in the year 1989, whereas the suit was filed in the year 2005. Even the appellant/ plaintiff had also raised construction on the portion of the land in his possession, hence, he was very well aware of the factum of construction raised by the respondents on the land purchased by them. It has further been observed by the learned Lower Appellate Court that the property being joint, a suit for injunction was not maintainable against a co-owner as the remedy of seeking partition was available.

With this material on record and no evidence produced on record, which has either been not considered or misread, having been referred to by learned counsel for the appellant, I do not find that the findings recorded are perverse. No substantial question of law arises. The appeal is accordingly dismissed.

4.8.2015
vs

(Rajesh Bindal)
Judge