

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

**RSA No.1046 of 2013 (O&M)
Date of Decision-18.02.2015**

Mohinder Singh and anr.

Appellants

Versus

Arjan Singh and ors.

Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sandeep Jasuja, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

This Regular Second Appeal at the instance of appellants-defendants is against the judgment and decree dated 01.05.2009, whereby the suit for separate possession by partition by metes and bounds of property bearing No.182/VII-2 Black Plate, Joura Pipal, Amritsar has been decreed and the appeal filed against the same has been dismissed.

Learned counsel appearing on behalf of the appellants submits that appellants have constructed the house on the property which as per the findings of the Courts below has been held to be entire ownership of the co-sharers, therefore, the appellants/defendants would suffer irreparable loss. Be that as it may, this fact can be taken by the appellants at the time of passing of final decree but cannot be raised in the present appeal which has been filed against the preliminary decree.

Both the Courts below have rendered a finding of facts on the basis of evidences brought on record to show that both the parties to the suit were co-owners/co-sharers in the property and it is settled law that co-owners/co-sharers have share on each and every inch of property unless

ouster has been proved. There is no plea of ouster which has been taken in the present case and the preliminary decree was passed on the basis of oral and documentary evidence.

There is no illegality and perversity in the findings recorded by the Courts below which are based on the facts and the law.

No substantial question of law arises for the adjudication of the present appeal.

Accordingly, the present appeal is dismissed.

18.02.2015

prince

(AMIT RAWAL)
JUDGE