

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.6845 of 2016 (O&M)
Date of decision:17.10.2016

Rajinder Kumbar Bansal and others

... Petitioners

Vs.

Sat Pal Bansal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. S.C.Arora, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

The petitioner-plaintiffs are aggrieved of the impugned order dated 31.05.2016, whereby, application moved under Order 40 Rule 1 of Code of Civil Procedure (hereinafter referred to as “CPC”) in a suit for separate possession, has been dismissed.

Mr. S.C. Arora, learned counsel appearing on behalf of the petitioner-plaintiffs submits that the defendants had set up a plea of oral partition which has not been reflected in the revenue record and therefore, the application aforementioned was moved. No doubt, the relief of mesne profit was also sought. This fact has not been appreciated by the Court below.

I have heard learned counsel for the petitioner-plaintiffs and appraised the paper book and of the view that moving of application under Order 40 Rule 1 CPC for appointment of Receiver was nothing but an arm

twisting tactics. Once the plaintiffs have already availed the remedy qua relief of mesne profits, therefore, they are entitled to prove the claim in accordance with law but not in the manner and mode as has been adopted. The Receiver cannot be appointed as petitioners are running the business and moving of the application, is clear cut act of aggrandizement which is not permissible.

No ground is made out in interference in the impugned order.

Accordingly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

October 17, 2016
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No