

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

RSA No.2648 of 2016 (O&M)

Date of Decision.01.09.2016

Joginder Singh

.....Appellant

Vs.

Gurmukh Singh

.....Respondent

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

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff is aggrieved of the concurrent finding of fact whereby the suit for declaration of having become owner of the property measuring 2 kanals 10 marlas out of khasra No.33R/7/1(3-11) has been dismissed. Other area measuring 3 kanals 11 marlas has been purchased by other persons and therefore, plaintiff and other persons became exclusive owners of Khasra No.33R/7/1, thus, injunction could have been granted from forcible possession and dispossession against the defendant. All these facts escaped the notice of Courts below and therefore, observation given by the Courts below for availing the remedy of partition is neither here nor there, thus, urges this Court for setting aside the judgments and decrees passed by the Courts below by formulating the substantial questions of law as drawn in the memorandum of appeal.

I have heard learned counsel for the appellant, appraised the paper book and of the view that the entire khata of the property is joint

ownership as measuring 9 kanals 19 marlas and the property is still joint as per the revenue record. A simpliciter suit for declaration and injunction in the mode and manner as has been filed by the plaintiff was/is not maintainable. The observation of the Courts below for seeking the remedy elsewhere i.e. the competent court of law for separate or joint possession by way of partition is appropriate finding.

For the foregoing reasons, I do not find any illegality and perversity in the judgments and decrees passed by the Courts below as the same are based upon correct appreciation of oral as well as documentary evidence, much less, no substantial question of law arises for consideration. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

September 01, 2016
Pankaj*

Whether reasoned/speaking Yes/No

Whether reportable Yes/No