

RSA No.4318 of 2016 (O&M)

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

**RSA No.4318 of 2016 (O&M)
Date of decision:01.09.2016**

Balbir Singh and others

... Appellants

Vs.

Jarnail Singh (deceased through LRs) and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Mansur Ali, Advocate and
Mr. H.S.Deol, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.11252-C of 2016

For the reasons stated in the application, duly supported by an affidavit, delay of 16 days in filing the appeal is condoned.

C.M. stands disposed of.

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The appellant-defendants are aggrieved of the injunction granted by both the Courts below, whereby, the respondent-plaintiffs have been *prima facie* found in possession and obtained the injunction qua forcible dispossession and interference.

Mr. Mansur Ali, learned counsel appearing on behalf of the appellants submits that in fact, Gram Panchayat had already obtained eviction order against the plaintiffs and it is the land meant for common purposes. The defendants had also been using the same. The Gram

Panchayat is not executing the order of ejectment despite having instructions passed on from time to time. All these facts escaped the notice of the Courts below and therefore, there is illegality and perversity in the findings under challenge.

I have heard learned counsel for the appellants and appraised the judgments and decrees of the Courts below.

The appellant-defendants in cross-examination admitted the possession of the respondent-plaintiffs. The suit is simpliciter for declaration and not for title. If at all, the land of the Gram Panchayat is joint, therefore, it is well within its rights to seek possession in accordance with law but not in the manner and mode as has been adopted. In my view, the injunction sought is most innocuous. Nothing prevented the appellants to take possession in accordance with law.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

September 01, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No