

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

**RSA No.3498 of 2015 (O&M)
Date of decision:13.01.2016**

Harjinder Singh

... Appellant

Vs.

Jagdish Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Vipin Mahajan, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.8503-C of 2015

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.

C.M.No.14460-C of 2015

Prayer in the application is seeking permission to amend the grounds of appeal.

No ground is made out to amend the grounds of appeal.

Dismissed.

RSA No.3498 of 2015 (O&M)

The appellant-plaintiff is in Regular Second Appeal against the concurrent findings of facts and law, qua declining of relief in respect of land bearing khasra No.15/3/2, whereas, in respect of land bearing khasra No.7/2 situated at village Sindwan, Tehsil Batala, respondent has been injuncted, in essence, suit in part has been decreed.

Mr. Vipin Mahajan, learned counsel appearing on behalf of the appellant-plaintiff contends that in aforementioned suit, appellant had placed on record copy of the sale deed by virtue of which the other co-owner, namely, Surjit Kaur, who is none else but mother, had out of khasra No.15/3/2 sold her share and therefore, he has become co-sharer along with other co-sharer Jagdish Singh-defendant, who, purported to have purchased the land, therefore, Tejinder Singh, has sold more than his share than what he had, thus, there is illegality and perversity in the findings rendered by both the Courts below, much less, substantial question of law arises for adjudication of the present appeal.

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

In a suit for permanent injunction, title is not to be decided. The appellant-plaintiff shall be at liberty to seek declaration vis-a-vis sale deed executed by Tejinder Singh in excess of his share in the competent Court of law and not in the present suit, much less,

in appeal. Since the appellant-plaintiff has been found in exclusive possession of khasra No.7/2, both the Courts below have granted injunction with regard to same. The appellant and respondent are co-sharer and remedy, if any, is to seek partition and not to claim injunction.

With 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 adjudication of the present appeal. Since I dismissed the appeal, no ground is made out in allowing the application filed under Order 41 Rule 27 of the Code of Civil Procedure.

(AMIT RAWAL)
JUDGE

January 13, 2016
savita