

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

**C.M.No.1489-C of 2016 in/and
RSA No.3963 of 2015 (O&M)
Date of decision:08.02.2016**

Rajender Singh

... Appellant

Vs.

Birmati and others

... Respondents

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. Saurabh Dalal, Advocate
for the applicant/appellant.

AMIT RAWAL J. (Oral)

C.M.No.1489-C of 2016

For the reasons stated in the application, duly supported by an affidavit, order dated 12.01.2016 is recalled and the appeal is restored to its original number.

C.M. stands allowed.

**C.M.No.9688-C of 2015 in/and
RSA No.3963 of 2015 (O&M)**

For the reasons stated in the application, duly supported by an affidavit, delay of 1015 days in re-filing the appeal is condoned.

C.M. stands disposed of.

The appellant-defendant is aggrieved of the concurrent findings of facts and law, whereby, in a suit for permanent injunction seeking restraint order against him from dispossessing the plaintiffs from the suit property and from interfering in the peaceful possession of the plaintiffs over the same, has been decreed.

Mr. Saurabh Dalal, learned counsel appearing on behalf of the appellant-defendant submits that respondent-plaintiffs were owners of the property as the property had been purchased by the appellant-defendant through certain documents. Though they were not registered, in essence, plaintiffs could not have sought the injunction on the basis of the entry in the revenue record. These facts have totally been ignored by both the Courts below, thus, there is illegality and perversity in the impugned judgments and decrees of the Courts below, much less, substantial question of law arises for adjudication of the present appeal.

I have heard learned counsel for the appellant-defendant and appraised the impugned judgments and decrees of the Courts below and am of the view that appeal deserves to be dismissed for the following reasons:-

The appellant-defendant has not taken any steps seeking declaration *vis-a-vis* ownership, much less, no counter claim has been set up in the aforementioned suit. On the contrary, the respondent-plaintiffs have been found in possession of the property and rightly so, on the basis of the same, the trial Court granted the

injunction.

It is settled law that until and unless co-sharer is found in exclusive possession, cannot seek injunction except partition.

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**

February 08, 2016
savita