

**103 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

RSA No. 5 of 2016 (O&M)
Date of Decision: 04.09.2017

BALKARAN SINGH

-APPELLANT

VS

GAJINDER SINGH & ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: None for the appellant.

Mr. C.M. Munjal, Advocate,
for the caveators/respondents.

RAJ MOHAN SINGH, J. (ORAL)

In a suit for permanent injunction, both the Courts below found that the plaintiff was not in exclusive possession of the suit property. Plaintiff claimed possession over the entire suit property as '*Gair Marusi Bila Lagan*'. Plaintiff executed affidavit Ex.D1 wherein possession of the defendants was admitted on 583 Kanals 13 Marlas out of the total land. The possession of the plaintiff was to be seen with reference to the revenue record viz jamabandis and Khasra Girdawaries.

As per jamabandi (Ex.P9) for the year 2010-11, plaintiff was shown to be co-sharer along with others including Bimla Rani wife of Col. Pirthi Singh, (one of the defendant). The shares of all the co-sharers were mentioned in the ownership

column of the jamabandi and possession of Kulbir Singh and Samarbir Singh etc. was shown.

In the aforesaid document, plaintiff was only shown to be a co-sharer along with other defendants and was not found to be in exclusive possession over the suit land. On some portion of the land, possession of Balkaran Singh was recorded, but the same was not found to be exclusive because possession of some other persons including the defendants was also reflected in the revenue record.

Khasra Girdawari (Ex.DX) and (Ex.DY) also gave the same picture. In case of co-sharership, one of the co-sharer can oust others only in the event of establishing his exclusive possession to the very knowledge of other co-sharers. In a joint land, every co-sharer would be deemed to be in possession of the land till the same is partitioned by metes and bounds. The possession of 583 Kanals 13 Marlas was found in possession of the defendants as per the admission made by the plaintiff in Ex.D1, the execution of which was admitted by the plaintiff in his cross-examination. Certified copy of Ex.D1 i.e. Ex.D2 was duly brought on record and the same was considered by the Courts below in order to establish possession of the defendants over the land measuring 583 Kanals 13 Marlas out of total land.

Since, the possession of the plaintiff was not found to

be exclusive, therefore, both the Courts below have declined injunction to the plaintiff as he was only a co-sharer in the joint land. The objection with regard to unregistered document was also negated in view of the fact that no new right was conferred upon the defendants as the defendants were already co-sharers in the joint land.

Before parting with the order, it is necessary to highlight the fact that the appeal was filed through original counsel. Thereafter, number of adjournments were taken on the ground of subsequent counsel being hospitalized, thereafter, other Advocates were also engaged but despite number of adjournments, none has appeared in the appeal.

Today also, despite two pass overs, none has come present to address arguments.

Faced with the objection of learned counsel for the respondents, I proceeded to hear his arguments on merits.

No law point worth consideration of this Court is involved in the present appeal.

Accordingly, the same is dismissed.

04.09.2017
jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No