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

**RSA No.4771 of 2017 (O&M)
Date of Decision: 24.10.2017**

Devinder Singh & another

.....Appellants

Vs

Shingara Singh & others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. S.S. Rangi, Advocate and
Mr. Saurabh Bhatia, Advocate
for the appellants.

RAJ MOHAN SINGH, J. (Oral)

[1]. Plaintiffs are in Regular Second Appeal against the concurrent judgments and decrees passed by the Courts below in a suit for injunction.

[2]. Brief facts are that the plaintiffs filed a suit for permanent injunction in respect of *Khasra* No.1154 claiming themselves to be owner in possession on the basis of sale deed dated 07.01.1987.

[3]. The suit was contested by the defendant No.1 on the ground that actually Sarwan Singh, father of the answering defendants was owner in possession of the land comprised in

Khewat No.106, *Khatoni* No.158, *Khasra* No.20//14/1, 17, 18/1, 23, 24, 25/1 situated at village Sohavi, Tehsil and District Ludhiana as per *jamabandi* for the year 1967-68. One Bhajan Kaur and Uttam Kaur were owners in possession of land measuring 33 *Kanals* 2 *Marlas* comprised in *Khasra* No.1175, 1151, 1152, 1113, 1114 situated at village Hargana and said Bhajan Kaur and Uttam Kaur had exchanged their land with the land of father of the defendants. Bhajan Kaur and Uttam Kaur delivered the possession of land measuring 33 *Kanals* 2 *Marlas* comprised in aforesaid *khasra* numbers to the father of the defendants and father of the defendants delivered possession of aforesaid land comprised in *Khewat* No.106, *Khatoni* No.158 to said Bhajan Kaur and Uttam Kaur.

[4]. The aforesaid oral exchange was given effect in the revenue record and mutation No.1626 was sanctioned on 28.12.1969 in the name of Sarwan Singh and Mutation No.655 was sanctioned on 28.04.1970 in favour of Bhajan Kaur and Uttam Kaur. After the death of Sarwan Singh, the defendants became owner of the land so exchanged by their father. The sale deed dated 16.11.1981 and mutations no.2082 and 1626 were prior to the alleged sale deed dated 07.01.1987 relied upon by the plaintiffs.

[5]. Both the Courts below have found that the relief of

permanent injunction as claimed by the plaintiffs on the basis of sale deed dated 07.01.1987 and mutation No.2311 was non-existent in view of the possession of the plaintiffs over the *Khasra* No.1154 which they have purchased from Amar Singh son of Daya Singh vide registered sale deed dated 16.11.1981 Ex.DW-2/A and possession was also delivered to them. Even as per *jamabandi* Ex.P-3 relied upon by the plaintiffs, *Khasra* No.1154 was found to be in possession of the defendants. Mutation Ex.D-2 was also sanctioned in pursuance of sale deed Ex.DW-2/A in favour of the defendants. *Khasra girdawaris* Ex.D-5 and Ex.D-6 also did the certification of the aforesaid factual position.

[6]. The plaintiffs could not lead any documentary evidence to prove their possession in pursuance of alleged sale deed Ex.P-1. The cross-examination of plaintiff No.1 while appearing as PW-1 would show that the plaintiffs have not purchased any specific portion of the joint land, but had purchased the share thereof.

[7]. In view of admission of the plaintiff No.1 in the cross-examination in respect of purchase of share out of joint land, the possession of the plaintiffs could not be treated to be exclusive possession so as to oust other co-sharers from joint land. The plaintiffs having purchased half share of the *Khasra* No.1154

cannot stake exclusive possession so as to oust other co-sharers.

[8]. The finding of fact recorded by both the Courts below cannot be faulted with as the concept of co-sharership would show that even if, specific *khasra* number out of the joint land is sold, the same would amount to sale of share. Every co-sharer would be treated to be in possession over every inch of land, till the land is partitioned by metes and bounds. A co-sharer can injunct other co-sharers only in the event of his being in exclusive possession of a defined portion till partition of land by metes and bounds. No such preposition of law is involved in the present appeal. The impugned judgments and decrees passed by the Courts below are based on factual position of the case.

[9]. Consequently, no law point worth cognizance is involved in the present appeal. The appeal is found to be totally bereft of merits and the same is accordingly dismissed.

October 24, 2017

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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No