

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

**RSA No.1041 of 2016 (O&M)
Date of Decision.12.11.2018**

Malkiat Singh Bains

.....Appellant

Vs.

Avtar Singh and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sandeep Bansal, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in claiming injunction on the basis of possession. The sole basis of injunction had been that in a suit instituted by defendant No.1 bearing No.220 of 2002 titled as “Avtar Singh Vs. Malkiat Singh etc.”, there was a compromise dated 13.04.2003. The aforementioned compromise was effected on behalf of Kuldeep Singh, defendant No.2 being the attorney of Avtar Singh. As per the averments in the suit, the plaintiff filed the suit when there was threat perception of forcible interference and dispossession. Both the Courts below have dismissed the suit on the premise that copy of the attorney had not seen light of the day, in essence, whether Kuldeep Singh had any power or authority to compromise on behalf of Avtar Singh, other co-sharer.

Mr. Bansal, learned counsel appearing on behalf of the appellant submitted that it was incumbent upon the defendant to establish that plaintiff was not in exclusive possession as the relief sought in the suit was for simplicitor injunction. The compromise

bore signature of Kuldeep Singh being himself and on behalf of Avtar Singh, which reflected the possession.

I am afraid the aforementioned argument of Mr. Bansal is not sustainable, for, onus, in suit for injunction by a co-sharer claiming exclusive possession, heavily relies upon him. No revenue record has been placed on record. Assuming for argument's sake though not admitted that there was compromise, that compromise has not been reflected in the revenue record nor copy of attorney has seen light of the day.

All these factors weighed in the mind of the Court below while rendering concurrent finding of fact. I do not find any illegality and perversity in the judgments and decrees rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 12, 2018

Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No