

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

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**RSA-1274-2016 (O&M)
Date of Decision : 27.9.2018**

Kusum and another

....Appellants

vs.

Pawan Kumar and another

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Abhinav Sood, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below dismissing a suit for injunction filed by the appellants.

The case of the appellants was that respondent No.1 was earlier the husband of appellant No.1. During divorce proceedings, he had agreed to pay permanent alumni of Rs.7 lakhs. Thereafter, he could not pay the same and then agreed to sell the property to the appellants and also put them in possession. However, after executing the agreement to sell in favour of the appellants he entered into agreement to sell with respondent No.2.

The Respondent No.2 tried to dispossess the appellants and the appellants filed a suit for declaration that they be declared joint owner in possession and for injunction restraining the respondent No.2 from dispossessing them.

Both the Courts below held that there was no legal basis to

declare the appellants as joint owners. The Courts below held that they could file suit for specific performance. The Courts below also held that once the efficacious remedy was available to them under Section 41(h) of the Specific Relief Act, 1963 the present suit was barred.

Counsel is not in a position to explain how the findings of the Courts below are incorrect. The appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

27.9.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No