

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

RSA No.1588 of 2015 (O&M)

Date of decision : 23.05.2018

Kuldeep and another

...Appellants

Versus

Budh Ram

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Alka Chatrath, Advocate for the appellants.

Mr. Santosh Sharma, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The plaintiffs-appellants are in the Regular Second Appeal against the judgment passed by the learned First Appellate Court reversing the judgment passed by the learned trial Court while dismissing the suit for permanent injunction.

Best case of the plaintiffs is that they are co-sharers in the property which is being used for residence. The injunction prayed for is that the defendant-respondent be restrained from raising the construction over the suit property. The reasons for filing the suit has been very clearly noticed by the First Appellate Court where the plaintiff's witness i.e. Om Parkash appeared in the evidence and made a statement that since the defendant is not giving him his half share, therefore, he came to depose against him.

The First Appellate Court on appreciation of the evidence have found that the oral partition between the family members took place long back and the plot in question was lying vacant wherein the fuel woods were lying. The evidence which has been appreciated is neither shown to be perverse nor result of mis-reading or non-reading of any evidence. It is not in dispute that till date the plaintiffs have not filed any suit for partition of the property. Only effort of the plaintiffs appears to be to stall the construction of the defendant and then keep sitting over the matter which cannot be permitted.

In view thereof, there is no scope for interference.

Regular Second Appeal is dismissed.

23.05.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No