

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

RSA No.4102-2016 (O&M)
Date of Decision:16.11.2018

Vikram Singh and others

.....Appellants

Vs.

Chhattarpal

....Respondent

CORAM : HON'BLE MR.JUSTICE AMIT RAWAL

Present: Sh,Lakhwinder Singh Mann, Advocate for
Mr.Zorawar Singh Chauhan, Advocate,
for the appellants.

AMIT RAWAL, J. (Oral)

The appellants-defendants have not been successful in defending the suit for injunction before the trial as well as the appellate Court. Plaintiff claimed himself and defendant no.1 to be co-sharer of the land as depicted at point ABCD in the site plan and alleged that parties have already in possession of their respective portions, and the house was also partitioned way back on 23 September, 2010 and writing to this effect Ex.PW3/B was affected. The defendant disputed the aforementioned writing on the premise that the same had not proved in accordance with law and by discarding the aforementioned defence of appellants, the trial Court restrained the defendant from forcible interference and encroachment.

The learned counsel appearing on behalf of the appellants submitted that in view of the jointness amongst the co-sharers the remedy had been of course to claim partition. In other words, it is submitted that simpliciter suit for injunction was not maintainable.

I am afraid the aforementioned arguments are not sustainable for defendant in cross-examination admitted that the parties to the *lis* had already partitioned the property. In view of such situation that the parties had arrived at arrangement and were living separately in their respective portions the defendants cannot be permitted to cause interference in the share of the plaintiff.

Thus, the submission of learned counsel appearing on behalf of the appellants-defendants is not to able to bring the case within the realm of perversity to form different opinion than the one arrived at by the Courts below.

The second regular appeal is ordered to be dismissed.

(AMIT RAWAL)
JUDGE

November 16, 2018.

dharamvir/dkp

Whether speaking/reasoned	: YES/NO
Whether Reportable	: YES/NO