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

RSA No. 4481 of 2016 (O&M)
Date of Decision: 06.08.2018

Harmesh Kumar

....Appellant

Vs

Piara Lal

.....Respondent

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

Present: Mr. Aditya Dassaur, Advocate,
for the appellant.

RAJ MOHAN SINGH, J.(Oral)

1. Plaintiff is in regular second appeal in a suit for permanent injunction.
2. Plaintiff sought restraint order qua interference by the defendant in Haveli and house. Plaintiff claimed himself to be owner in possession. Plaintiff is alleged to have constructed Haveli and house during lifetime of his father Dalipa Ram son of Mangtu. Mangtu had three sons and three daughters namely Dalipa Ram, Piara Lal and Mohan Lal, Gurbaksho, Jeeto and Gurmito.
3. Plaintiff further alleged that Mangtu was owner in possession of 15 ½ marla of old house. During his lifetime, he gave 7 Marlas to Dalipa Ram, 8 ½ Marlas to Piara Lal and old

house to Mohan Lal.

4. Defendant contested the suit by denying family settlement. According to him, after the death of Mangtu, all the legal representatives became owner in equal shares. Mutation No.2326 was also sanctioned in favour of all six heirs of Mangtu. Daughters namely Preeto and Gurbaksho sold their share i.e. 4 Marla 4 Sarsahi in favour of Piara Lal vide registered sale deed dated 30.05.2005. The objections filed by Dalipa Ram at the time of sanctioning of mutation were dismissed.

5. In the revenue record viz. Jamabandi for the year 2006-07 (Ex.P20), joint status of the parties was shown wherein Dalipa Ram was shown to be co-sharer to the extent of 12.26 Marlas. Even the witness of the plaintiff i.e. PW1 Kesho Lal admitted that the defendant is also living in the same Haveli. The factum of pending partition at the instance of defendant was also admitted by PW3 Harmesh Kumar-plaintiff.

6. In terms of doctrine of co-sharership, all the co-sharers would be deemed to be in possession over every inch of joint land till the same is partitioned by metes and bounds. The principles highlighted in **Sant Ram Nagina Ram vs Dev Ram Nagina Ram, 1961 PLJ 528** were further reiterated in **Bhartu vs Ram Swaroop 1981 PLJ 203** and **Ram Chander vs Bhim**

Singh 2008(3) RCR (Civil) 685.

7. It is true that a co-sharer can injunct other co-sharer if he is found to be in exclusive possession of the joint land unless the same is partitioned.

8. In the instant case, parties are shown to be joint owners in the revenue record. Oral plea of partition could not be established by the plaintiff by way of leading any evidence, rather as per admission made by PW1 and PW3, the land is proved to be joint.

9. No law point worth consideration is involved in the present appeal.

10. The findings recorded by both the Courts below cannot be held to be on account of mis-reading of evidence or have suffered with perversity.

11. This regular second appeal is accordingly, dismissed.

06.08.2018

Jyoti Yadav

**(RAJ MOHAN SINGH)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No