

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

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**RSA-4957-2016 (O&M)
Date of Decision : 20.08.2018**

Sumit Chawla and others

..... Appellants

Versus

Deepak Sharma and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. M.S. Bedi, Sr. Advocate
with Ms. Manpreet Kaur, Advocate
for the appellants.

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the concurrent judgments of the courts below granting a preliminary decree of partition.

The admitted facts are that the appellant No.1 and the respondent No.1 are owners of the property in dispute. The appellant No.1 having 1/4th share and the respondent No.1 having 3/4th share the respondent No.1 filed a suit for partition of 3/4th share and it is against that preliminary decree of partition that this appeal has been filed.

Learned senior counsel for the appellants states that actually he is not pressing the appeal against the preliminary decree of partition on behalf of appellant No.1 but the appellants No.2 and 3 are tenants in the property and by the preliminary decree the courts below have also issued an injunction restraining the appellants from raising any fresh construction or changing the nature of the property. As per the learned senior counsel, under this injunction the respondent No.1 will now even

stop the appellants No.2 and 3 from carrying out necessary repairs.

In my considered opinion, there is no warrant for this hypothetical argument. The injunction which has been issued is only with regard to fresh construction and change of nature of the property.

In the totality of circumstances, I am not persuaded that the findings recorded by the courts below are either based on no evidence or based on such a perverse misreading of evidence so as to justify the interference of this Court in second appeal.

Appeal is dismissed. No costs.

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

August 20, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No