

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.4961 of 2016 (O&M)

Date of decision:27.11.2018

Dharampal

... Appellant

Vs.

Pirithi Raj and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Peeush Gagneja, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff has not been successful before both the Courts below in claiming injunction against the co-sharer. On the other hand, defendants claimed the exclusive possession on the basis of the agreement to sell entered into by another co-sharer.

The plaintiff has been denied the relief of injunction in the absence of any site plan.

Be that as it may, in case, one of the co-sharers, in view of the ratio decidendi culled out by the Full Bench of this Court in **Bhartu vs. Ram Sarup 1981 PLJ 204** is able to establish the exclusive possession, can always seek injunction being co-owner with regard to the construction and dispossession but if otherwise, the remedy lies elsewhere i.e. partition. The documentary evidence placed on record did not establish the plaintiff to be in exclusive possession. In such circumstances, as per the settled law, the

appellant-plaintiff was not entitled to seek injunction.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees under challenge which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 27, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No