

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

107

**RSA-5844-2016 (O&M)
Date of Decision : 13.09.2018**

Mamur and another Appellants

Versus

Harun Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Shiva Khurmi, Advocate
for the appellants.

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the concurrent judgments of the courts below dismissing a suit for permanent injunction with consequential relief of mandatory injunction filed by the appellants whereby they prayed that the respondent be restrained from interfering in their possession of the suit property and from raising any construction thereon and sought direction to the respondent to remove the illegal construction already raised by him over the suit property.

Both the courts below noticed that in their cross-examination the appellants admitted that the respondent was in possession of the suit property and came to the conclusion that in these circumstances they could not file suit for injunction. Both the courts below also noticed that the appellants admitted that the property was owned by them and three of their brothers and the remaining three brothers/their legal representatives had sold their shares to the respondent. Further the draftsman who prepared the site plan was also not examined.

Counsel for the appellants has not been able to persuade me 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 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.

September 13, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No