

RSA-6119-2016 (O&M)

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

RSA-6119-2016 (O&M)

Date of decision : 27.11.2018

Jasvir Singh

... Appellant

Versus

Dharam Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sandeep Arora, Advocate
for the appellant.

AMIT RAWAL, J.

The appellant-plaintiff has not been successful in seeking injunction against the defendants being co-sharers before the trial Court as well as before the lower Appellate Court.

Learned counsel for the appellant-plaintiff submitted that the plaintiff had been in exclusive possession of the land measuring 10 marlas as described in the site plan and head-note of the plaint, but the Courts below have denied the injunction on the premise that the partition proceedings were pending. While dismissing the suit, the Courts below remained oblivious of the fact that the possession was exclusive.

I am afraid the aforementioned argument is not sustainable as for a co-sharer to seek injunction against a co-sharer, the parameter as laid down by the Full Bench of this Court in **Bhartu vs. Ram sarup 1981 PLJ 204**, which is extracted hereinbelow, has to be complied with:

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"Exclusive possession is one of the essential ingredient. In the absence of the same, the parties are relegated to the partition proceedings."

Concededly, the partition proceedings are pending. The plaintiff has not been able to prove the exclusive possession.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Arora to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

27.11.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**