

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 101

RSA-4851-2015 (O&M)

Date of decision : 19.07.2018

Jeet Kaur @ Surjit Kaur and others

..... Appellants

VERSUS

Prem Chand and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ashish Gupta, Advocate, for the appellants.

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DEEPAK SIBAL, J. (ORAL)

The appellants/plaintiffs filed a suit, seeking therein permanent injunction to restrain the respondents/defendants from raising any construction in the front portion of land bearing Khewat No. 12/11, Khatoni No. 53, Khasra No. 148 (4-18), 150/2 (4-8), total measuring 9 bighas 6 and biswas, situated in village Lallochhi, Tehsil and District Patiala (for short, the suit property). Such suit was dismissed by the Trial Court and the appeal filed by the appellants before the Appellate Court met the same fate as their suit, giving them a cause to file the present second appeal.

The facts in brief, which are culled out from the record as also after hearing learned counsel for the appellants are that the parties to the suit are khewatdars of village Lallochhi, Tehsil and District Patiala and are joint owners to the extent of their respective shares in the suit property which is still joint and owned by them. The case set up by the appellants was that they were entitled to get the front portion of the suit property as it led to their fields and since the respondents/defendants, without seeking

partition, were trying to make construction over the same, they had filed the instant suit.

As noticed earlier, both the Trial Court as also the Appellate Court have concurrently rejected the pleas raised by the appellants primarily on the ground that both the parties to the suit being co-sharers the appellants had no right to seek injunction against the respondents as the construction by the respondents has neither changed the nature of the suit property nor was adversely affecting the rights of either of the co-sharers as it has nowhere even been pleaded by the appellants that the respondents have done anything which is detrimental to the interest of the appellants or any other co-sharer. All that the respondents had done is that they had constructed a house over the part of the suit property in the same manner as the appellants had done in the other part of the same. Both parties having constructed their respective houses on the land jointly owned by them, both the Trial Court as also the Appellate Court have rightly declined to grant the relief as prayed for by the appellants.

No error is found in the concurrent findings of fact returned by both the Trial Court as also the Appellate Court.

No question of law much less any substantial question of law arises in the present appeal warranting interference.

The appeal is accordingly dismissed.

19.07.2018
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No