

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

**RSA No.6312 of 2016 (O&M)
Date of Decision.01.11.2018**

Yadav Rai and others

...Appellants

Vs

Rameshwar and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashok Bhardwaj, Advocate
for the appellants.

-:-

AMIT RAWAL J. (ORAL)

The appellants-plaintiffs are not successful in seeking injunction against the respondents-defendants claiming co-owners in possession in the suit property (hereinafter called ruri).

Defendants opposed the aforementioned suit and stated that they never tried to take forcible possession as they are in lawful possession of 50% share.

The trial Court on the basis of some proceedings initiated under Section 107/150 Cr.P.C dismissed the suit and the appeal laid before the lower Appellate Court also met with the same fate.

Mr. Ashok Bhardwaj, learned counsel appearing on behalf of the appellants-plaintiffs submitted that the Court had erroneously termed the order dated 10.10.2007 Ex.P2 to be an enquiry but in fact it was a status quo order which was ultimately vacated vide order dated 23.01.2008, Ex.P3 passed by the Additional District Judge, as the SDM did not have the power to order status quo. Defendants candidly admitted the exclusive possession of the plaintiffs. In such circumstances, injunction was liable to be granted,

therefore, there is gross illegality and perversity.

I have heard learned counsel for the appellants, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Bhardwaj, for, no independent evidence had been led to prove the exclusive possession. The proceedings under Sections 107/150 Cr.P.C reveal that there was a breach of peace at the instance of the parties. The plaintiffs could have taken assistance of the Court to prove exclusive possession by appointing local commissioner or through other means to belie the averments made in the written statement. For claiming injunction on the basis of exclusive possession, onus heavily relied upon the plaintiffs had not been discharged. In fact, the remedy lies elsewhere.

All these factors weighed in the mind of the Courts below, thus, submissions of Mr. Bhardwaj have not been able to bring the case within the realm of illegality and perversity to enable this Court to form a different opinion than the one already arrived at, much less, involvement of any substantial question of law. No ground for interference is made out.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 01, 2018
Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No