

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

RSA No.6564 of 2016 (O&M)

Date of Decision: 08.05.2018

Sukhdev Singh

.... Appellants

Versus

Tehal Singh & ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gaurav Chopra, Advocate
for the appellant.

AMIT RAWAL J.(ORAL)

The appellant-plaintiff is in Regular Second Appeal against the concurrent finding of fact whereby the claim laid to the permanent injunction for restraining the respondents-defendants from alienating any specific Khasra number of interfering with the possession of the appellant-plaintiff in respect of the suit property has been rejected and affirmed by the Lower Appellate Court.

Mr. Gaurav Chopra, learned counsel appearing on behalf of the appellant submitted that both the Courts below have non-suited the appellant on the ground that khata between the parties is joint and until and unless the parties are able to seek the partition, injunction cannot be granted against a co-sharer. In respect of the same property, there is litigation pending in this Court whereby status-quo order has been passed vide order dated 29.08.2011.

I have heard learned counsel for the appellant-plaintiff and

perused the paper book.

Once the already status-quo order has been passed in RSA Nos.4771 of 2009 as well as 1557 and 1599 of 1992, there was no occasion for the appellant-plaintiff to institute the suit in the year 2010. The remedy was/is for seeking modification of the interim order passed in those Regular Second Appeals.

The plaintiff invited the trouble himself by filing the suit. It is settled law that no injunction can be granted against co-sharer without partition. In my opinion, injunction would not take away the right of the party as share is yet to be determined, thus, argument of the counsel for the appellant is not able to bring the case within the realm of perversity and illegality, much less no ground is made out for interference.

Accordingly, the present appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 08, 2018
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No