

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

**RSA- 5397-2015(O&M)
Date of decision : 21.11.2018**

Vinay Pal Singh and others

..... Appellants

versus

Partap Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sachin Mittal, Advocate for the appellants.

AMIT RAWAL, J. (ORAL)

Plaintiffs have not been able to seek injunction against the defendants to be in cultivating possession of the suit land on the ground that possession had been acquired into ownership owing to long, settled and continuous possession. The defendants opposed the suit by denying the possession of the plaintiffs. It was alleged that plaintiff no. 1 had already entered into an agreement to sell dated 28.5.1980 and delivered possession to the defendants. Since the title of the plaintiffs was not clear, the sale deed could not be executed. The exclusive possession of the plaintiffs was also denied.

Both the parties led evidence in support of their respective claim. The trial court on the basis of the evidence brought on record found that the plaintiffs were not in exclusive possession of the suit property, dismissed the suit. The appeal before the lower appellate court was also dismissed.

Mr.Sachin Mital, learned counsel appearing for the appellants submitted that both the courts have committed illegality and perversity as the status of the plaintiffs as per jama bandi Ex. P4 was that of co-sharers and even the exclusive possession has been proved, therefore, injunction against the co-sharer could not have been denied. Ex. D1 and D2 also corroborated the plea of possession.

I am afraid that the afore mentioned argument of learned counsel is not sustainable as Jamabandi for the year 1992-93 established the status of both the parties as co-sharers but the same could not be construed as a conclusive proof of their exclusive possession over the suit property. Even alleged possession of suit property by Mukhtiar Singh could not be proved. The stray entry did not confer the exclusive possession. This is what has been noticed by both the courts below declining injunction to the plaintiffs.

Appeal bereft of any merit is accordingly dismissed.

(AMIT RAWAL)
JUDGE

21.11.2018
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No