

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

**RSA No.3097 of 2017 (O&M)  
Date of Decision.13.12.2018**

Karan Singh

...Appellant

Vs

Naresh Kumar and others

...Respondents

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Sanjay Mittal, Advocate  
for the appellant.

-:-

**AMIT RAWAL J. (ORAL)**

The appellant-plaintiff has not been successful in claiming partition of the suit land qua 1/4<sup>th</sup> share as described at Sr. No.A to D, as the aforementioned land was recorded as joint ownership of the parties to the *lis*. Even defendants No.2 to 6 were alleged to be in possession of excess of their share and even the factum of sale by defendants was also referred to. Reference of some previous litigation regarding injunction was made.

Defendants opposed the suit and alleged that property between the parties had already been partitioned and all the co-sharers had been in exclusive possession. Plea of maintainability of suit being hit on account of partial partition was also taken.

Mr. Sanjay Mittal, learned counsel appearing on behalf of the appellant submitted that judgments and decrees of the Courts below are not sustainable on the reasoning assigned, for, admission in evidence regarding previous partition as against the record will not have a credence. There is no evidence with regard to other property and therefore, suit was not liable to be dismissed on the ground of

partial partition.

I am afraid aforementioned argument of Mr. Mittal is not sustainable, for, the revenue record established exclusive possession of the properties. Had there not been an arrangement between the parties, exclusive possession would not have been there and therefore, injunction as a consequential relief was also not liable to be granted. The other parcels of land were not subject matter of suit denying joint ownership of the defendants. Rightly so, the suit for partition was dismissed on the ground that partial partition of the suit property had already taken place.

In view of the aforementioned fact, concurrent finding of fact and law cannot be faulted with, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**December 13, 2018**

Pankaj\*

Whether Reasoned/Speaking      Yes/No

Whether Reportable                      Yes/No