

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

**RSA No.3202 of 2017 (O&M)  
Date of Decision.13.12.2018**

Tarlochan Singh

...Appellant

Vs

Pargan Singh

...Respondent

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

Present: Mr. Parvinder Singh, Advocate  
for the appellant.

Mr. Jagatpal Singh Banwait, Advocate for  
Mr. Sarju Puri, Advocate  
for the caveator-respondent.

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**AMIT RAWAL J. (ORAL)**

**C.M. No.7903-C of 2017**

For the reasons stated in the application, delay of 15  
days in filing the appeal is condoned.

Application is allowed.

**RSA No.3202 of 2017**

The present appeal arises out of decision of suit and counter-claim. Plaintiff Tarlochan Singh sought injunction against his brother, defendant from forcible dispossession from the house shown in the site plan except in due course of law till the property is not partitioned by metes and bounds. The respondent-defendant sought the partition by way of counter claim. The appellant-plaintiff filed counter-claim for adjustment of ₹2,50,000/- alleged to have been spent on improvement, which was declined by the trial Court. The appeal was filed only qua declaration of adjustment of improvement, which was also dismissed.

Mr. Parvinder Singh, learned counsel appearing on behalf of the appellant submitted that there is categorical admission of the defendant with regard to sum of ₹30,000/- to ₹40,000/- incurred by the plaintiff, therefore, discharged the onus, even in the absence of any direct and cogent evidence.

I am afraid aforementioned argument is not sustainable, as the preliminary decree is only confining to share. Plaintiff had raised construction at his own peril and expenses incurred on the improvement had not been established, thus, onus had not been discharged. In such circumstances, Courts below had no other option but to dismiss the suit.

In view of aforementioned facts, concurrent finding of fact and law rendered by the Courts below 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