

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

RSA No.428 of 2017 (O&M)

Date of decision : 16.10.2018

Smt. Kishna and another

...Appellants

Versus

M/s Trinti Touch Pvt. Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Surinder Dagar, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

The plaintiffs-appellants are in the Regular Second Appeal against the judgments passed by both the Courts below, although, learned First Appellate Court has slightly modified the judgment and decree passed by the trial Court.

It is undisputed that defendant No.1 had purchased the property comprised in Khasra Nos.22, 23 and 24 measuring 24 kanals from Ganga Lal and Gaya Lal. The plaintiffs had thumb marked the aforesaid sale deed. Defendant No.1 after getting the permission for change of land use, has setup a industrial unit. The plaintiffs filed a suit for injunction claiming that the sale of specific portion of the land would be a sale of undivided share in the joint property and, therefore, the defendants should be restrained from raising the construction.

Both the Courts declined the relief, however, learned trial Court

had directed the defendants to provide a passage to the plaintiffs. This direction has been reversed by the learned First Appellate Court.

It is undisputed that the partition proceedings initiated by the plaintiffs are already pending. Once the plaintiff has thumb marked the sale deed, the plaintiffs who are mother and three daughters are not entitled to any injunction. Needless to say that the authority/Court while deciding the application for partition would be entitled to decide the matter independently without being influenced by the judgments passed by the Courts below.

In view of the above, there is no ground to interfere.

Regular Second Appeal is dismissed.

16.10.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No