

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.4359 of 2018 (O&M)

Date of decision: 19.11.2018

Jarnail Singh and another

..... Appellants

Versus

Gurmail Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vineet Chaudhary, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below decreeing the suit for permanent injunction restraining the defendants from dispossessing the plaintiffs from the joint land on the basis of sale deed dated 05.06.2009. Defendants No.1 and 2 had purchased undivided share in a joint property. Both the Courts on appreciation of evidence have found that defendants No.1 and 2 could not prove delivery of actual physical possession of the land sold. On purchase of undivided share, defendants No.1 and 2 become co-owners and the remedy for them is to file partition proceedings in order to get physical possession of the land purchased by them. The Courts below have only granted a decree for injunction. Defendants-appellants would be free to initiate the partition proceedings if already not initiated.

In view thereof, the appeal is dismissed.

There is an application (CM-11532-C-2018) for condoning the huge delay in re-filing the appeal. Since this Court has already dismissed the case on merits, therefore, no further order is required.

19.11.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No