

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

**RSA No.5936 of 2017 (O&M)**

**Date of Decision.02.02.2018**

Gurdial Singh

.....Appellant

Vs

Vijay Kumar and others

.....Respondents

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

Present: Mr. M.S. Viridi, Advocate  
for the appellant.

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**AMIT RAWAL J.(ORAL)**

The appellant-defendant is aggrieved of the concurrent finding of fact whereby the suit of the plaintiff seeking injunction against the appellant-defendant from interfering in peaceful possession and changing the nature of the suit property by way of raising construction in any manner of the suit land comprised in Khewat No.186, Khatoni No.197, Khasra No.770/55/3 measuring 6K-18M situated at Mukerian, H.B. No.264, Tehsil Mukerian, Distt. Hoshiarpur except in due course of law.

Mr. Viridi, learned counsel appearing on behalf of the appellant-defendant submits that stand of the appellant-defendant before the trial Court was that construction raised by the plaintiffs and the defendants were of different khasra numbers. This fact has been proved through the documentary evidence i.e. jamabandi. No doubt, the local commissioner was appointed and he gave a report which was admitted by the Gurdial Singh, who appeared as DW1, to be correct but the trial Court while rendering dealing with the contention of the counsel for the plaintiffs in para 20 gave a passing reference that defendants are in illegal possession of

commissioner in the absence of relief of injunction, such observation would definitely cause impediment to the defendants in raising the construction and chances of misusing the aforementioned observations cannot be ruled out, though the decree sheet is only with regard to injunction of interference and dispossession except due course of law.

I have heard learned counsel for the appellant-defendant and appraised the paper book. The relief sought by the respondents-plaintiffs was simplicitor for injunction of not causing interference or dispossession in respect of the property described herein above whereby the decree was granted not to interfere except in due course of law. If the appellant-defendant has any grievance, he could have set up a counter-claim or file an independent suit. The expression “except due course of law” is a recurring cause of action.

I do not find any illegality and perversity in the judgments and decrees passed by the Courts below, much less, no substantial question of law arises for determination by this Court. While upholding the judgments and decree passed by the Courts below, the second appeal is dismissed.

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

**February 02, 2018**

Pankaj\*

Whether reasoned/speaking      Yes

Whether reportable      No