

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

**RSA No.2882 of 2016 (O&M)
Date of decision:21.01.2019**

Naresh Kumar

Vs.

... Appellant

Anita Aggarwal and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Subhankar Baweja, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

Concededly, the appeal filed by the defendants is pending adjudication before the Lower Appellate Court. The present Regular Second Appeal has arisen against the judgment and decree of the Lower Appellate Court which dismissed the suit for injunction filed by the plaintiff, decreed by the trial Court.

Remedy for one of the parties is not to claim the injunction from dispossession but the partition which has already been availed. This is what has been noticed by the Lower Appellate Court.

In view of above, the findings of fact and law rendered by the Lower Appellate Court cannot be said to be suffering from illegality and perversity as the appellant has already availed the remedy.

The appeal is dismissed.

**(AMIT RAWAL)
JUDGE**

January 21, 2019

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No