

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

RSA No. 1434 of 2018(O&M)

Date of decision: 21.1.2019

Jora Singh and another

.....Appellants

VERSUS

Sukhwinder Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. L.M. Gulati, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against judgment and decree dated 06.12.2017 passed by the Additional District Judge, Amritsar whereby appeal against judgment and decree dated 15.01.2016 passed by the trial Court dismissing suit of the respondents/plaintiffs was allowed and as a result, suit for permanent injunction filed by the respondents/plaintiffs against forcible dispossession from suit land measuring 5 kanal 14 marlas comprised in various khasra numbers detailed in para 17 of the judgment of Appellate Court was allowed with the findings that the respondents would not be dispossessed forcibly and illegally except in due course of law.

The Appellate Court, in para 15 of the judgment, has held that from the evidence i.e. Jamabandi Ex.PX1, fard hakiats Ex.PX2 and PX3, it is clear that land comprised in khatauni No.352 pertaining to khewat No.153, 139, 154 was not sold by Sukhwinder Kaur rather it was sold by Buta Singh, her husband, but inadvertently name of Sukhwinder Kaur has been incorporated as seller and this mistake has been corrected by the

Revenue Authority by entering fard badar No.47, sufficient to establish that Sukhwinder Kaur had not sold land more than her share. Further held that as per the jamabandi Ex.P1 and Ex.PX1, Sukhwinder Kaur and Rajwant Kaur both are co-sharers in the property and Sukhwinder Kaur is shown in exclusive possession of the property in dispute. When one of the co-sharers is in exclusive possession of the property in dispute, he can only be dispossessed by due course of law i.e. partition.

Counsel for the appellants is not in a position to dispute the factual findings recorded by the Appellate Court on the basis of documentary evidence on record. He has also not disputed the position in law that a co-owner in exclusive possession of the joint land cannot be dispossessed except in due course of law. He has failed to point out that the Appellate Court has based its judgment on materials which are not part of records or has failed to take into consideration material which otherwise has a bearing on decision of the case on merits. In this view of the matter, there is no merit in contention of the appellants that judgment passed by the Court in appeal suffer from error much less perversity or raises a question of law that needs determination after notice to the contesting party.

In view of what has been discussed hereinabove, finding no merit, the appeal fails and is accordingly dismissed in limine with no order as to costs.

JANUARY 21, 2019

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no