

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

RSA No.2166 of 2018(O&M)

Date of decision: 17.12.2019

Angrej Kaur and othersAppellants

VERSUS

Teja SinghRespondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. P.K. Garg, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against judgment and decree dated 21.09.2017 passed by the Additional District Judge, Sangrur whereby appeal against the judgment and decree dated 31.08.2016 passed by the Civil Judge (Junior Division), Sunam (hereinafter referred to as the trial Court) decreeing suit of the appellants/plaintiffs has been accepted, impugned judgment and decree has been reversed and suit filed by the appellants for grant of permanent injunction is dismissed.

The appellants/plaintiffs are the daughters of Sarwan Singh and claimed themselves to be co-owners in possession to the extent of 3/4th share in suit property i.e. land measuring 9 kanal 10 marlas, detailed in headnote of the plaint, situated in village Dhandoli Khurd wherein the respondent/defendant is stated to be co-owner to the extent of 1/4th share. They prayed for grant of injunction restraining the respondent against

alienating the suit property more than his share and changing nature of suit property by raising construction illegally and forcibly.

Counsel for the appellants would inform that the Appellate Court has held the respondent/defendant to be in exclusive possession of suit land and by relying upon Division Bench judgment of this Court **Bachan Singh Vs. Swarn Singh, 2000(3) RCR (Civil) 70** has held that respondent/defendant being a co-sharer in exclusive possession of the joint property has right to enjoy and reap fruits of the property even by raising construction and co-owner who is not in exclusive possession has remedy by way of partition of the joint land before the concerned Revenue Authorities.

Counsel for the appellants has failed to successfully assail findings of the Appellate Court with regard to respondent/defendant to be in exclusive possession of the joint land. He has fairly conceded that the Appellate Court has not recorded any adverse findings against the appellants qua ownership of the suit property to the extent of 3/4th share. If the respondent/defendant sells land more than his share, his vendee would be adversely affected because no one can pass a better title than he has. In view of the above, I do not find any reason to interfere in the decree and judgment passed by the Appellate Court.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine. Nothing stated hereinbefore shall prejudice right of the appellants to take recourse to appropriate proceedings for partition of the joint property.

DECEMBER 17, 2019
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no