

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

1. RSA No.6034 of 2014 (O&M)
Date of decision : 28.02.2019

Rajinder Singh (deceased) through his legal heir and another

...Appellants

Versus

Suba Singh and others

...Respondents

2. RSA No.1703 of 2015 (O&M)
Date of decision : 28.02.2019

Rajinder Singh (deceased) through his legal heir and another

...Appellants

Versus

Harnek Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.S. Bassi, Advocate for the appellants.
(In both the appeals)

Mr. Aakash Singla, Advocate for the respondents.
(In RSA No.6034 of 2014)

ANIL KSHETARPAL, J. (ORAL)

By this judgment, two appeals bearing RSA No.6034 of 2014
and RSA No.1703 of 2015 shall stand disposed of.

Plaintiffs who are purchasers of land measuring 166 kanals out
of total joint khewat of 291 kanals claim mesne profits on the ground that

the remaining co-sharers are in possession of excess of their share and, therefore, they are entitled to mesne profits.

Mesne profits has been defined in Section 2(12) of the Code of Civil Procedure. Recovery can be made under Order 20 Rule 12 of the Code of Civil Procedure. To claim mesne profits, it has to be held that person is in wrongful possession of such property. Till the khewat is joint and undivided, every co-sharer is deemed to be owner in possession of every part of the land, hence, it is not possible to hold that a co-sharer is in wrongful possession of the part of the property.

This issue has been examined in the judgment recently passed in RSA No.18 of 1996, titled as Surinder Singh Sibia Vs. Smt. Jaswant Kaur and others, decided on 17.01.2019.

In view of the detailed reasons recorded in the abovesaid judgment, there is no ground to interfere.

Both the Regular Second Appeals are dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

28.02.2019

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**