

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

**RSA No.427 of 2017 (O&M)
Date of Decision.12.04.2019**

Yogesh Kumar

..Appellant

Vs

Suresh Kumar (now deceased) and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. M.S. Sachdev, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

C.M. No.908-C of 2017

For the reasons stated in the application, delay of 62 days
in re-filing of the appeal is condoned.

Application is allowed.

C.M. No.911-C of 2017

The prayer in the application for impleadment of legal
representatives of deceased Suresh Kumar as well as Parkash Wanti
i.e. respondents No.1 and 3 is allowed subject to all just exceptions
and the legal representatives of deceased respondents No.1 and 3 are
ordered to be brought on record subject to all just exceptions.

RSA No.427 of 2017

The appellant-plaintiff has not been successful in seeking
injunction against defendants from alienating, transferring or
changing nature of suit property as being concededly co-sharers.
Both the Courts below have relegated the appellant to avail the
remedy of partition.

Mr. Sachdev, learned counsel appearing on behalf of the

appellant submitted that though categoric pleading of the plaintiff was that they were in joint possession but the injunction qua alienation could always be granted.

I am afraid aforementioned argument is not sustainable, as the remedy was to seek partition and interim stay but not in the manner and mode as adopted.

In view of such circumstances, the concurrent finding of fact and law rendered by Courts below cannot be said to be suffering from illegality and perversity, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

April 12, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No