

RSA-4496-2017 (O&M)

108

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

RSA-4496-2017 (O&M)
Date of decision : 27.02.2019

Sukhwinder Singh and another

... Appellants

Versus

Lakhwinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Raman Mohinder Sharma, Advocate
for the appellants.

AMIT RAWAL, J. (ORAL)

CM-11704-C-2017

For the reasons stated in the application, the delay of 2 days in
filing the appeal is condoned.

CM stands disposed of.

CM-11705-C-2017

For the reasons stated in the application, the delay of 249 days
in refiling the appeal is condoned.

CM stands disposed of.

RSA-4496-2017

The appellants-plaintiffs are in the present regular second
appeal against the concurrent findings of fact, whereby their suit for
permanent injunction in respect of land measuring 36 kanals 4 marals, has
been dismissed by the trial Court and affirmed in appeal.

RSA-4496-2017 (O&M)

In fact, the defendants placed on record material evidence to prove that the possession was not exclusive.

The law with regard to the injunction amongst the co-sharer and against the co-sharer is no longer res integra in view of the *ratio decidendi* culled out by the Full Bench of this Court in **Bhartu Versus Ram Sarup, 1981 PLJ 204** and Division Bench in **Bachan Singh Versus Swaran Singh, 2000 (3) RCR (Civil) 70**. Until and unless the person is in exclusive possession, injunction cannot be granted against the co-sharer and the remedy lies else where i.e. partition.

In this view of the matter, I do not find any illegality and perversity in the judgments and decrees of the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the present regular second appeal is dismissed.

27.02.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**