

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

**RSA No.4775 of 2017 (O&M)
Date of Decision.14.01.2019**

Surender Kumar and others

...Appellants

Vs

Dayanand

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Mukesh Yadav, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

The appellants-defendants have not been successful in defending the suit for injunction instituted by none else but father and grand father of defendants in respect of the suit property, who claimed to be owner in possession, having 1/4th share in the land measuring 12 kanals 2 marlas and some other piece of land having 1/4th share in 20 kanals 12 marlas and so on and so forth. It was alleged that defendants had no link with the suit property but defendants with the help of muscle power were interfering into peaceful possession of the plaintiff.

Defendants contested the suit and alleged the property to be coparcenary. It was stated that there was a family settlement and they had been put into possession by way of oral partition and cultivating the suit land.

Plaintiff examined himself as PW1 and tendered into evidence documents Ex.P1 jamabandi for the year 2006-2007 and other khasra girdawaries whereas defendants as many as five witnesses and brought on record Ex.D1 to D13.

Mr. Yadav, learned counsel appearing on behalf of the

appellants submitted that once the property was stated to be coparcenary, defendants being the sons and grandsons have share by birth. In such circumstances, Courts below could not have granted injunction. The defendants are cultivating the suit land given to them in oral partition but the entry remained in favour of the plaintiff, therefore, Courts below ought to have appointed local commissioner in this regard, thus, there is abdication.

I have heard learned counsel for the appellants, appraised the paper book and of the view that there is no force and merit, as revenue record reflected possession and ownership of the plaintiff. Defendants have not been able to establish their possession, thus, injunction granted is most innocuous. If at all defendants had some grievance, the remedy lies elsewhere and not defending the suit.

In such circumstances, I do not find any illegality and perversity in the concurrent finding of fact rendered by the Courts below, 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

January 14, 2019

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No