

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.6147 of 2017 (O&M)

Date of Decision: April 08, 2019

Mohan Lal

...Appellant

Versus

Ram Lok & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Arun Takhi, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

Appellant-defendant has not been successful in defending a suit for injunction seeking restraint against him from changing the nature of the land measuring 12 kanals 3 marlas, i.e., 8 kanals comprised in Khasra Nos. 34//12/4, 12/5, 13/1 and 13/2 and 4 kanals 3 marlas, comprised in Khasra No.34//12/1 and 12/2.

Plaintiffs alleged that they are co-sharers in joint possession over the land measuring 12 kanals 3 marlas. In the year 2009, defendant allegedly purchased 7 marlas out of 5 kanals 8 marlas from one Ram Shah in Khasra No. 34//3/1 and except 7 marlas, the defendant has no share in Khewat No.269. The defendant extended threat to keep the building material.

Defendant opposed the suit by stating that he has become co-sharer as his vendor was Ram Shah and the simpliciter suit for injunction was not maintainable.

Both the parties led evidence and also brought on record

documents, including jamabandi for the year 2008-09.

Mr. Arun Takhi, learned counsel for the appellant-defendant submitted that, in fact, Ram Shah was the joint owner with the plaintiffs and once he had parted with the land, status of the appellant-defendant with the respondent-plaintiffs would be of a co-sharer and simpliciter suit for injunction in the absence of exclusive possession in view of the law laid down by the Full Bench of this Court in **Bhartu Versus Ram Sarup, 1981 PLJ 204** was not maintainable. In fact, the possession was of Khasra No.13/2, whereas the sale deed reflected of 3/1. There was a bonafide mistake.

I am afraid, the aforementioned arguments of the learned counsel for the appellant would not be sustainable as the contents of the sale deed reveal the sale of land from Khasra No.34//3/1 (5-8), whereas Ram Shah along with the plaintiffs was co-sharer of Khasra No.34//12/2 (Ex.P1). In such circumstances, defendant cannot assume the role of a co-sharer and deny the relief of injunction in the absence of any exclusive possession. The remedy was to seek rectification of the sale deed and nothing beyond.

For the reasons aforementioned, I do not find any illegality or perversity in the concurrent findings of fact. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

April 08, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No