

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

RSA-2251-2018 (O&M)

Date of decision : 20.01.2020

Hardev Singh (since deceased) through his LRs and another

...Appellants

Versus

Piara Singh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Anupam Bhardwaj, Advocate for the appellants.

\*\*\*\*

**ANIL KSHETARPAL, J. (ORAL)**

Plaintiffs-appellants are in the Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below while deciding the suit filed by the plaintiffs claiming declaration that they are owners in possession of the property apart from the relief of permanent injunction.

Plaintiffs filed the suit claiming that the suit land was owned by Sardar Singh who in turn had sold the land to plaintiff No.1 and his brother Kala Singh (since deceased). Plaintiff No.2 is mother of late Sh. Kala Singh and plaintiff No.1.

The defendants contested the suit and pleaded that Sardar Singh and Kunan Singh were co-sharers. Kunan Singh had sold his share of the property to the father of the defendants vide three sale deeds dated 04.10.1981, 20.08.1987 and 08.09.1987.

Learned trial Court, on appreciation of evidence, has held that

Sardar Singh and Kunan Singh were co-sharers and, therefore, the plaintiffs and defendants have become co-sharers, however, the Court dismissed the suit.

Learned First Appellate Court, on re-appreciation of evidence, has modified the decree and held that the parties are co-sharers. However, it has been observed that the remedy for the plaintiffs is to seek partition of the joint property.

Learned counsel for the appellants has submitted that the Courts below erred in refusing to grant a decree for injunction. He submitted that even if the suit for declaration was correctly dismissed, still the Courts ought to have granted the decree for injunction.

This Court has considered the submission. The relief of temporary injunction can be applied and granted by the Court on appreciation of material, in the suit which may be filed by the plaintiffs for partition of the joint property.

Hence, there is no ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Accordingly, the present appeal is dismissed.

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

**20.01.2020**

*Pawan*

**(ANIL KSHETARPAL)  
JUDGE**

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

**Whether reportable:-                                  Yes/No**