

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

RSA No.3705 of 2018 (O&M)
Date of decision: 29th January, 2020

Kewal Singh

... Appellant

Versus

Neeraj Kumar & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Naveen Batra, Advocate for the appellant.

FATEH DEEP SINGH, J.

Kewal Singh appellant (then plaintiff) filed against Neeraj Kumar and others (now respondents) a suit for mandatory injunction directing them to vacate the shop and house alleged to be owned by the plaintiff detailed in the head note of the plaint and further seeking a decree for permanent injunction restraining the defendants from interfering and dispossessing the plaintiff in any manner from the peaceful possession of the suit property.

Admittedly the appellant Kewal Singh is father of respondents No.1, 3 and 4; husband of respondent No.2 and grandfather of respondent No.5 and there is a history of matrimonial litigation between the two sides. The present dispute has ensued out of the estranged wife and minor daughters' pursuing their claim for maintenance and its recovery. The respondents claim that the property is

coparcenary ancestral property and is joint ownership of the parties and therefore, a dispute over the title of the property has come about. The plaintiff has filed a simplicitor suit for mandatory injunction with permanent injunction when he ought to have filed a relief seeking declaration to his title. Moreover, mandatory injunction arises only to undo subsequent events and to bring about previous status of a right and interest, when it is not so in the present case. More so, in the consecutive findings the two Courts below have clearly and univocally held that there is no tangible evidence led by the plaintiff to establish his case. Learned counsel for the appellant could not convince this Court as to any illegality or perversity that has cropped up in the impugned findings necessitating intervention by this Court. There being no merit in the present appeal, the same stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

January 29, 2020
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No