

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

RSA-1225-2022 (O&M)

Date of decision: 05.07.2022

Ashutosh Kaushik

....Appellant

Versus

Kamlesh Rawat

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. H.S.Dhandi, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

While assailing the concurrent findings of fact, the plaintiff has filed the present appeal. He filed a suit for grant of decree of permanent injunction, restraining the defendant from interfering in his possession over the land measuring 4 Biswas, which is stated to have been purchased from Sh. Rajesh Mahajan vide registered sale deed dated 3rd September, 2014. The defendant contested the suit and claimed that she has purchased 6 Biswas of land alongwith the constructed house vide sale deed dated 8th July, 2011. Both the courts, on appreciation of evidence, have found that the evidence led by the plaintiff is contrary to his own pleadings and he has failed to produce the layout plan attached with the sale deed. Both the courts have also found that the parties namely the plaintiff and the defendant purchased share in an undivided Khata.

The learned counsel representing the appellant contends that the appellant had purchased the land measurinig 4 Biswas out of khasra No. 128 whereas the defendant purchased a land from Khasra No. 178

and 128, which is at a far off place. The defendant cannot take away the property, which was purchased by the plaintiff.

It may be noted here that the concept of a co-sharer/co-owner in agricultural land is with reference to the khata/khewat number. There is no concept of co-sharer in a particular Khasra Number. Both the parties have purchased an undivided share in a joint Khata. The defendant is a prior purchaser. Her rights are superior. Furthermore, the evidence led by the plaintiff is contrary to his own pleadings. Both the courts have found that the plaintiff is guilty of concealing the material facts. Once the parties have purchased the undivided share in a joint land comprised in a particular Khata, the remedy available for the appellant is to seek partition.

With these observations, the appeal is dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

05.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE