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

RSA-1514-2022 (O&M)

Date of Decision : 11.03.2026

Virender & Ors

... Appellant(s)

Versus

Mukhtiyar Singh & Anr

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sudhir Rana, Advocate for the appellants.

ALKA SARIN, J. (Oral)

1. The present regular second appeal has been preferred by the plaintiff-appellants aggrieved by the judgment and decree dated 23.08.2017 passed by the Trial Court and the judgment and decree dated 29.09.2021 passed by the First Appellate Court.

2. Brief facts relevant to the present *lis* are that the plaintiff-appellants herein filed a suit for permanent injunction restraining the defendant-respondents from interfering in the peaceful possession of the plaintiff-appellants and raising any sort of construction or changing the nature of suit land in any manner. In the alternative, a decree of mandatory injunction was also prayed for. It was the case set up by the plaintiff-appellants that they are co-owners in possession of the suit land as fully described in the plaint. It was further the case set up that the defendant-respondents had no right to raise construction or change the nature of the suit land as the land sold to them was only a share and not a specific khasra number.

3. On notice, the defendant-respondent No.1 appeared and filed his written statement raising various preliminary objections. On merits it was stated that the defendant-respondent No.1 had purchased the suit land from the defendant-respondent No.2 vide a registered sale deed and had constructed a boundary wall and tin shed. Regarding the same the plaintiff-appellant No.2 had given his consent in the shape of an affidavit dated 19.06.2012 in the presence of Sarpanch and other witnesses of village. It was further the stand taken that both the parties are co-sharers in both khewats and as per the settlement, the defendant-respondent No.1 had constructed tin shed and boundary wall over his own share before 15.03.2013. The plaintiff-appellant No.2 had given his no objection and consent for constructing the boundary wall and tin shed in the shape of an affidavit dated 19.06.2012. It was further the stand taken that the defendant-respondent No.1 purchased the said land vide a registered sale deed and is a co-owner in exclusive possession of his share.

4. Replication was filed. On the basis of the pleadings of the parties, the following issues were framed :

- (1) Whether the plaintiff is entitled to a decree for permanent injunction as prayed for ? OPP
- (2) Whether the plaintiff is entitled to a decree for mandatory injunction as prayed for ? OPP
- (3) Whether the suit is not maintainable in the present form ? OPD
- (4) Whether the plaintiff has not come with clean hands before the Hon'ble Court and suppressed the material facts and that the suit is liable to be dismissed on this ground ?

OPD

(5) Whether the plaintiff has no caused of action to file the present suit ? OPD

(6) Whether the plaintiff has no locus standi to file the present suit ? OPD

(7) Whether the suit of the plaintiff is bad for non -joinder of necessary party hence suit is liable to be dismissed ?

OPD

(8) Whether the suit is malafide and plaint self contradictory in nature liable to be dismissed ? OPD

(9) Whether the defendants has come into possession of his share vide oral partition and has make construction their on ? OPD

(10) Relief

5. The Trial Court dismissed the suit vide judgment and decree dated 23.08.2017. Aggrieved by the same an appeal was preferred by the plaintiff-appellants which appeal was also dismissed by the First Appellate Court vide judgment and decree 29.09.2021. Hence, the present regular second appeal.

6. Learned counsel for the plaintiff-appellants would contend that both the Courts have erred in dismissing the suit. It is urged that the defendant-respondents were constructing on the suit land without there being any partition of the suit property and had constructed in the prime portion of the suit land.

7. I have heard the learned counsel for the plaintiff-appellants.

8. In the present case, both the Courts have concurrently found, relying upon the cases of **Bhartu Vs. Ram Saroop [1981 PLJ 204]** and **Bachan Singh Vs. Swaran Singh [2000 (3) RCR (Civil) 70]**, that no injunction can be sought against a true owner. In the present case it is an admitted fact that both the parties are co-owners of the suit property. It has also come on record that there was a mutual agreement between the parties and the said mutual agreement was not denied by the plaintiff-appellants. In view of the above and keeping in view the law laid down by this Court in the cases of **Bhartu** (supra) and **Bachan Singh** (supra), no fault can be found with the judgments and decrees passed by both the Courts. In the face of the findings recorded by both the fact finding Courts, there is no scope for any interference by this Court. No cogent and reliable evidence has been highlighted by the counsel for the plaintiff-appellants for this Court to take a contrary view from the one taken by both the Courts. No other point was argued.

9. In view of the above, no question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

11.03.2026
Yogesh Sharma

(**ALKA SARIN**)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO