

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.7526 of 2014

Date of decision :-February 19, 2015

Hari Ram

.....Petitioner

Vs.

Bimla Devi and others

.....Respondents

CORAM : Hon'ble Mr.Justice Dr.Bharat Bhushan Parsoon.

Argued by: Mr.M.S.Rana, Advocate for the petitioner.

Dr.Bharat Bhushan Parsoon, J.

1. In a suit for seeking decree of declaration and permanent injunction, an application under Order XXXIX Rules 1 and 2 read with Section 151 Code of Civil Procedure of the plaintiff-Hari Ram petitioner herein, for seeking injunction against the defendant Ajit Singh (since deceased) and represented by his legal representatives and respondents herein, restraining them from interfering in the possession of the petitioner-plaintiff in the property in dispute till final decision of the suit, was dismissed on 28.04.2014. Even an appeal preferred against this order by the plaintiff-petitioner was dismissed by Additional District Judge, SBS Nagar on 12.09.2014.

2. Counsel for the petitioner has alleged that both the courts below have overlooked the factual matrix and attending circumstances particularly possession of the petitioner after partition of the land vide partition dated 20.02.1970.

3. This partition deed dated 20.02.1970 propounded by the petitioner-plaintiff has been disputed by the respondents-defendants. It is a matter of evidence. At this stage there is no document worth credence to prove possession of the petitioner-plaintiff over the land in dispute. Revenue record does not depict partition of 20.02.1970 of the land claimed by the petitioner-plaintiff. Rather, proceedings for partition of land are going on before the Assistant Collector, Balachaur. Petitioner-plaintiff had cleverly omitted to mention this fact. There is no reason forthcoming for not correctly putting the factual matrix before the courts below.

4. The application is nothing but a clever move of the petitioner plaintiff to stall the partition proceedings before the revenue authorities under the garb of alleged partition of 20.02.1970. The document is yet to be proved by the plaintiff in evidence.

5. In view of the concurrent findings of both the courts below against the petitioner-plaintiff, there is no merit in the revision petition, the same is dismissed.

February 19, 2015
anil

(Dr.Bharat Bhushan Parsoon)
JUDGE