

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

RSA No. 4106 of 2015 (O&M)

Date of Decision: December 07, 2015

Manphool

.... Appellant

vs.

Mukandi Ram and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. R.S. Mamli, Advocate for the appellant.

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

CM-9981-C-2015

There is delay of 13 days in filing the present appeal.

For the reasons mentioned in the application, supported by an affidavit, delay of 13 days in filing the present appeal is condoned, subject to all just exception.

Application stands disposed of.

RSA-4106-2015

Impugned in the present regular second appeal is the judgment and decree dated 18.03.2015 passed by learned District Judge, Yamuna Nagar at Jagadhri, affirming the judgment and decree dated 17.12.2011 passed by learned Addl. Civil Judge (Sr. Divn.), Yamuna Nagar at Jagadhri, vide which the suit of the plaintiff for partition by metes and bounds to the extent of ½ share of the

plaintiff in the residential house in dispute along with the prayer for permanent injunction restraining the defendants from alienating the disputed house, was dismissed.

The case of the plaintiff is that the disputed house is ancestral and joint Hindu Family Property, in which he has pre-existing rights and that he is residing in the disputed house with his family. Somi Devi, mother of the plaintiff expired on 08.11.2003. The plaintiff claimed that his father Mukandi Ram had fallen in bad habits and he sold the *bara* without any legal necessity. He had brought some lady having four children about three months back and started ignoring the plaintiff and also started threatening him to sell specific portion of the house including the portion in which plaintiff is residing.

In the written statement, defendant No.1 denied that the disputed house is ancestral. He pleaded that he had contracted second marriage and the property in dispute is self acquired property. He alleged that he being the owner of the house in dispute has every right to deal with the house in the manner he likes. It is also claimed that he had constructed the house in dispute about 40 years back and is in exclusive ownership.

I have heard learned counsel for the appellant and have also carefully gone through the case file.

Before the lower court, the plaintiff failed to prove that the disputed house is ancestral. It goes to show that Mukandi Ram is the exclusive owner of the disputed house. Since the plaintiff has no pre-existing right, therefore, he cannot claim any share in the disputed

house nor he can seek any partition.

The plaintiff is a married person, having his own family. The mere fact that he is residing in the said house does not mean that he is entitled to stay there for the indefinite period as licensee. The plaintiff has no vested right to live in the disputed house for the entire life. Therefore, the permanent injunction was rightly refused by the lower court. There are concurrent findings of both the courts below. No substantial question of law arises in the present appeal.

Hence, the present regular second appeal stands dismissed.

December 07, 2015
sarita

(KULDIP SINGH)
JUDGE