

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.1704 of 2014 (O&M)

Date of Decision: February 09, 2015

Baljinder Singh

...Appellant

Versus

Mohinder Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers 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?

Present: Mr.Arunjeet Singh Kakkar, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

This is a Regular Second Appeal at the instance of the appellant-plaintiff against the judgments and decrees of both the Courts below, whereby the suit of the appellant-plaintiff for claiming declaration that he is entitled to 1331/4333 share out of the land measuring 116 kanals 13 marlas, instead of 1244/4333 share and the share of defendant No.1 should have been 2167/4333 instead of 2254/4333 with consequential relief of permanent injunction in respect of the land mentioned in the head-note of the plaint and also the claim for ownership of land measuring 16 kanals 3 marlas, has been dismissed by both the Courts below.

Learned counsel appearing for the appellant, in support of his grounds of appeal, submits that both the Courts below have committed illegality and perversity in not granting relief as sought in the suit and instead declared the appellant-plaintiff as owner to the extent of 1288/4333

share in the suit land and this concession came by virtue of the jamabandi (Ex.PX) relied upon by the appellant-plaintiff.

No evidence had been produced on record to show that the appellant-plaintiff was entitled to 1331 share instead of 1288. However, the learned trial Court also restrained the defendants from alienating the portion of joint land beyond their share and further restrained them from alienating any specific portion of joint property till the property is partitioned.

It has come on record that the mutation of partition has been sanctioned by the revenue authorities and mutation No.2564 was sanctioned on 12.5.2005 and after the partition, the appellant-plaintiff is said to have exchanged his possession with the defendants, which had been incorporated in the jamabandi (Ex.PX) for the year 2002-03. Since no other evidence had been lead, much less, brought on record by the appellant-plaintiff to claim the share to the extent of 1331/4333, the Lower Appellate Court affirmed the findings of the trial Court, whereby the appellant-plaintiff has been given a share of 1288/4333 instead of 1331. Both the Courts below have rendered a finding of fact and law after appreciating the oral and documentary evidence brought on record. No fault can be found with the aforementioned findings. No substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal is dismissed.

February 09, 2015
ramesh

(AMIT RAWAL)
JUDGE