

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2358 of 2014(O&M)

Date of decision: December 11, 2015

Jage Ram

... Appellant

Vs.

Nafe Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sumit Gupta, Advocate
counsel for the appellant.

Surinder Gupta, J

Heard.

This is Regular Second Appeal against the judgment passed by Civil Judge (Junior Division), Gohana, whereby, the suit filed by plaintiff-respondent no.1 Nafe Singh was decreed and a preliminary decree for separating his 1/3rd share in the suit property was passed.

Admittedly, the disputed property was owned by Ram Sarup, father of Nafe Singh, Jage Ram and Om Parkash. After death of Ram Sarup, the parties have inherited the suit property. Even the defendant No.1-appellant Jage Ram is not denying this fact. However, he has resisted the plea of plaintiff seeking partition of the suit property on the ground that under a family arrangement, which took place about 40 years back during the life time of Ram Sarup, the parties have separated their share and living in separate portion of the house.

The learned Civil Judge (Junior Division) Gohana, discarded the plea of defendant no.1-appellant with the observation that he had failed to prove that the disputed property was ever partitioned between the parties

during the life time of Ram Sarup.

The above finding was affirmed by first Appellate Court.

Learned counsel for the appellant has argued that sons of Ram Sarup have been living separate since long and PW3-Balbir Singh has stated that they have partitioned their agricultural land under family arrangement. This proves the plea taken by defendant no.1-appellant that, even the house was also partitioned and the parties are living in their respective shares.

The appellant himself appeared as DW1 and had expressed his ignorance about the area of the house in his possession. The appellant though taken the plea that suit property was partitioned under a family arrangement, but has not come up with any details of the family arrangement. Even in his statement, he has not specified as to which portion of the disputed house has fallen to the share of plaintiff and other defendants under that family arrangement. A mere fact that parties are living separate and having their separate cultivation, is no reason to infer any partition of the joint property. The plea of family arrangement was required to be specifically pleaded with all details and then proved, which the appellant has clearly failed to prove in this case.

On perusal of the judgements of both the Courts below, I find no legal or factual infirmity therein calling for any interference.

No substantial question of law requiring determination arises in this appeal, which has not merits.

Dismissed.

December 11, 2015

deepak/jv

(Surinder Gupta)
Judge