

RSA No. 5596 of 2015 (O/M)
Date of decision : 21.10.2015

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sumer Singh Brar, Advocate, for the appellant.

- KULDIP SINGH J. (ORAL)

Impugned in the present regular second appeal is the judgment and decree dated 25.9.2015, passed by the learned District Judge, Shaheed Bhagat Singh Nagar, affirming the judgment and decree dated 1.12.2014, passed by the learned Additional Civil Judge (Senior Division), Balachaur, vide which the suit of the plaintiff for permanent injunction, was dismissed.

Briefly stated, the plaintiff had filed a suit for permanent injunction to the effect that he is owner in possession of the disputed property to the extent of ½ share after having purchased the same alongwith the defendant, vide sale date 30.1.1996. Now, the defendant is threatening to cut and remove the poplar trees standing in the disputed land and to alienate the valuable portion of the suit land.

CR No. 5596 of 2015 (O/M)

-2-

The lower Court, while relying upon the cross examination of the plaintiff, has found that the plaintiff had admitted that defendant had planted those poplar trees and that he is in possession of the land as per mutual partition between the parties, effected around 12/13 years ago. It was further found that the parties have got separate possessions and defendant had been planting and cutting the trees in his land. He had cut and removed the trees two times earlier also. The findings were affirmed in appeal. These were the findings of facts recorded by both the Courts below. Otherwise also, there is no illegality or infirmity in the findings recorded by both the Courts below. Merely pendency of partition proceedings is no ground to grant permanent injunction. Therefore, no substantial question of law arises in the present appeal. Hence, the present appeal is dismissed.

(KULDIP SINGH)
JUDGE

21.10.2015
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