

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

DATE OF DECISION: AUGUST 27, 2015

Amarjit Kaur @ Ajit Kaur and others

.....Appellants

VERSUS

Davinder Kumar and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASI

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**Present: Mr. Jagram Singh Cooner, Advocate,
for the appellants.**

AUGUSTINE GEORGE MASI, J. (ORAL)

In this Regular Second Appeal, challenge is to the judgements and decrees passed by the Courts below, vide which the suit for declaration to the effect that the order passed by the revenue authorities ordering partition, the details whereof have been mentioned in the heading of the suit, are illegal, null, void, beyond jurisdiction and have no benefits on the rights of the appellant-plaintiffs, has been dismissed on the ground that the jurisdiction of the Civil Court is barred under Section 158 of the Punjab Land Revenue Act, 1887 (for short, "1887 Act") and further that on the revenue side, the orders challenged have attained finality and merged with the order of the High Court, where the appellant-plaintiffs had preferred a writ petition, which was withdrawn with liberty to avail of the remedy

commensurate with the rights of the petitioners (appellant-plaintiffs herein).

It is the contention of counsel for the appellants that after the Court had given the liberty while withdrawing the writ petition, the Courts below could not have dismissed the suit of the appellant-plaintiff on the ground of it being barred by jurisdiction as per the provisions of Section 158 of 1887 Act. He, on this basis, has contended that the present appeal be allowed and the judgements and decree of the Courts below be set-aside.

This contention of learned counsel for the appellants cannot be accepted in the light of the fact that as per the provisions of Section 158 of 1887 Act, the jurisdiction of the Civil Court is specifically barred and further keeping in view the fact that the appellant-plaintiffs have already availed of their remedy by filing a writ petition in this Court, which also was withdrawn with liberty as referred to above, it cannot be said that it has conferred any right/jurisdiction upon the Civil Court to entertain the suit as preferred by the appellant-plaintiffs when the said orders under challenge have attained finality upto the High Court.

Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

**August 27, 2015
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**(AUGUSTINE GEORGE MASIH)
JUDGE**