

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

RSA No.4537 of 2014 (O&M)

Date of decision:26.11.2015

Smt. Shashi Goel and another ... Appellants

Vs.

Devender Sagar ... Respondent

RSA No.4764 of 2014 (O&M)

Subhash Goel ... Appellant

Vs.

Devender Sagar and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Pritam Saini, Advocate
for the appellants (in RSA No.4537 of 2014).

Mr. S.S.Dinarpur, Advocate
for the appellant (in RSA No.4764 of 2014).

AMIT RAWAL J. (Oral)

C.M.No.13373-C-2015 in RSA No.4537 of 2014

The application is allowed, subject to all just exceptions.
Document, judgment and decree dated 27.08.2014 (Annexure A-1) is
taken on record.

C.M.No.11189-C of 2014 in RSA No.4764 of 2014

For the reasons stated in the application, duly supported

by an affidavit, delay of 36 days in re-filing the appeal, is condoned.

C.M. stands disposed of.

Main Appeals

This order of mine shall dispose of two Regular Second Appeals bearing Nos.4537 and 4764 of 2014.

RSA No.4537 of 2014 has been filed by plaintiffs No.2 and 3, whereas, RSA No.4764 of 2014 has been filed by plaintiff No.1. The suit filed by the plaintiffs is for permanent injunction restraining the defendant from raising any sort of construction in respect of land measuring 38 kanals 3 marlas, has been partly decreed and partly dismissed.

Plaintiff No.1- Subhash Goel withdrew the suit, but is aggrieved against the findings rendered by the trial Court that he had sold his share, i.e., 30% which is contrary to the record, as he has never sold his share.

Mr. Pritam Saini, learned counsel appearing on behalf of the appellants submits that both the Courts below have committed illegality and perversity in reading the compromise Ex.C-1 because as per the same, property had already been partitioned, therefore, the suit for injunction with regard to entire piece of land, was not maintainable.

Mr. S.S.Dinarpur, learned counsel appearing on behalf of the appellant submits that he is not party to the compromise, therefore, the Courts below should not form an opinion that plaintiff

No.1 had sold his share.

I have heard learned counsel for the appellants and appraised the impugned judgments and decrees of the Courts below.

The compromise shows that entire property had been mortgaged amongst the co-sharers. Suit of the plaintiffs for injunction vis-a-vis entire property, in my view, was not maintainable and rightly so, has been dismissed by both the Courts below. The trial Court ought not to have decreed the suit by granting the liberty to the plaintiffs to seek partial partition.

It is a matter of record that many other co-sharers had sold their share and raised construction which was never objected by the plaintiffs. Simpliciter suit for injunction is an act of greed at the instance of plaintiffs. Since plaintiff No.1 is signatory to the compromise, thus, submission of Mr. Dinarpur qua finding that he had sold his share is not sustainable, thus, hereby, rejected.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for adjudication of the present appeals.

Accordingly, the appeals are dismissed.

(AMIT RAWAL)
JUDGE

November 26, 2015
savita