

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

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Civil Revision No.4656 of 2016

Date of Decision:22.08.2016

Ram Singh

....petitioner

Versus

Amar Singh and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: Mr.Surender Dhull, Advocate
for the petitioner

ARUN PALLI, J. (ORAL):

Vide order being assailed, dated 20.02.2016, rendered by the Additional Civil Judge (Senior Division), Guhla, the objections raised by the petitioner-defendant, to the passing of the final decree, in favour of plaintiff-respondent No.1, has since been rejected.

Concededly, in a suit for separate possession by way of partition, a preliminary decree for partition was rendered by the trial Court, in favour of plaintiff-Amar Singh son of Sadhu Ram, on 06.12.2000. Appeal preferred by the petitioner-defendant against the said decree failed, for, it was dismissed on 26.02.2004. Concededly, the judgement rendered by the First Appellate Court has since attained finality. Consequently, the plaintiff-respondent had applied for passing of the final decree. The application moved by the respondent/decreed holder was opposed by the petitioner, for, the preliminary decree, dated 06.12.2000, purports to have been obtained by way of fraud.

Ex facie, the objection sought to be raised by the petitioner is wholly misconceived, as the plea, if any, in this regard, could be raised by the petitioner, in appeal, while assailing the preliminary decree,

dated 06.12.2000. In fact, on being asked, learned counsel for petitioner, submits that plea of fraud was one of the grounds upon which the petitioner had challenged the preliminary decree dated 06.12.2000. Learned counsel for the petitioner could not point out as to how the conclusion arrived at by the trial Court was erroneous or suffered from any material illegality.

That being so, no interference is warranted in exercise of jurisdiction under Article 227 of the Constitution of India. The petition being devoid of merit is accordingly dismissed.

22.08.2016

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(ARUN PALLI)
JUDGE