

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

**RSA No.1995 of 2015 (O&M)
Decided on: 03.02.2016**

Bhanwar Singh

....Appellant

Versus

Laxmi Chand and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present: Mr. Mukesh Yadav, Advocate
for the appellant.

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

REKHA MITTAL J. (Oral)

The present appeal has been directed against consistent findings recorded by the Courts below whereby the suit filed by the appellant has been dismissed by the trial Court and the judgment and decree passed by the trial Court has been affirmed in appeal.

Counsel for the appellant would contend that the Courts below have committed patent illegality by holding that the suit land measuring 8 kanals comprised in Killa No.71//14 (8-0) is the joint property of the appellant and his brothers Raju Singh-respondent No.4 and Vijender Singh-respondent No.5 and it has

not been partitioned as yet. It is further argued that Raju Singh-respondent No.4 had no right to alienate specific Killa No.71 to respondents No.1 to 3 nor respondents No.1 to 4 can dispossess the co-owners in possession.

I have heard counsel for the appellant and perused the records.

Counsel for the appellant has not challenged correctness of the facts noticed by the Appellate Court in Para 15 of the judgment. A relevant extract therefrom reads as follows:-

“It may be added here that when plaintiff Bhanwar Singh stepped into the witness box he has deposed that all the three brothers had 53 kanals of land in total. He has then deposed that he does not know as to which brother had sold 5 to 6 kanal land which he had sold in the year 1966 to one Sushil. He has also deposed that he had handed over the possession of the land sold which he was cultivating. Then plaintiff Bhanwar Singh has admitted that today (that day) on suit land Jitender, Lakhi Chand and Ramotar (defendants No.1 to 3) are in possession though he has stated that they have entered into forcible possession. Thus, what is established on the file is that in a family partition, the suit land had fallen to the share of defendant No.4 Raju Singh and Raju Singh was in possession of the suit land and he handed over the possession of suit land to defendants No.1 to 3 selling the same to them.”

Once the appellant has admitted that defendants/respondents No.1 to 3 namely Jitender, Lakhi Chand and Ramotar are in possession of the suit land, no error much less illegality can be found in the findings recorded by the trial Court and affirmed in appeal holding against the appellant that he is not entitled to injunction as prayed for.

To be fair to the appellant, he admitted possession of respondents No.1 to 3 but with a rider that they have entered into forcible possession. There is nothing on record, pointed out by counsel for the appellant, suggestive of the fact that any such plea of forcible possession was raised by the appellant either in the original plaint or by way of amendment. That being so, neither any substantial question of law arises for adjudication nor there is any ground to interfere in the findings recorded by the Courts below.

For the reasons aforestated, finding no merit, the appeal is dismissed *in limine*.

(REKHA MITTAL)
JUDGE

03.02.2016
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