

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 4235 of 2016 (O&M)
Date of Decision : 22.08.2016

Baldev Singh

....Appellant

Versus

Ganesh Dass and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Amrik Singh Kalra, Advocate
for the appellant.

Surinder Gupta, J.

Suit filed by plaintiff-appellant seeking separate possession of 1/3rd share of property measuring 2 *kanals* bearing *khewat* no. 158, *Khatauni* no. 193, Rect. No. 26, *Killa* no. 8/3 situated in the revenue estate of village Shawla, H.B. No. 625, *Tehsil* and District Gurdaspur, as fully defined in the headnote of plaint, was dismissed by Civil Judge (Junior Division), Gurdaspur with the observation that suit property has already been partitioned on 27.06.1979, which is an admitted fact. Appeal filed by plaintiff-appellant was also dismissed.

2. Learned counsel for the appellant has argued that partition of suit property vide deed dated 27.06.1979 is not disputed but Ganesh Dass, who was given specific portion in that partition deed, has not adhered to the same and has sold more area than owned by him in three shops as shown in site plan (Ex. P-2). Learned counsel has submitted that as per partition deed, co-owners of suit property were given three plots of equal dimension and on front side towards road nine shops were constructed out of which three are owned by each party. However, Ganesh Dass has executed the sale deed of more area than the area of three shops that have fallen to his

share. He has further argued that Ganesh Dass has also encroached upon common passage which ends at his house by installing a gate.

3. Submissions raised by learned counsel for the appellant are beyond the scope of this suit but at the same time affirm the findings of Courts below that suit property has already been partitioned. When share of parties are defined by way of partition sale of any specific portion is to be considered as sale of share and it is well settled proposition of law that no one can convey better title than he himself possesses. Pleas raised by learned counsel for the appellant are not subject matter of this case. If, appellant has any grievance in that regard, he can avail separate remedy.

4. No substantial question of law, requiring determination, arises in this appeal, which has no merit.

Dismissed.

August 22, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No