

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

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Regular Second Appeal No.3390 of 2014 (O&M)

Date of Decision: March 15, 2016

Jaspal Singh

...Appellant

Versus

Harinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Har Naresh Singh Gill, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 03.05.2013 passed by the Additional Civil Judge (Senior Division), Fatehgarh Sahib, whereby the suit filed by the appellant-plaintiff for injunction qua the property mentioned at 'X' in the headnote, has been accepted, whereas qua property 'Y' mentioned in the headnote has been declined on the ground that 'Y' has admittedly been in possession of respondents-defendants as per the partition and demarcation, appeal against which preferred by the appellant-plaintiff has been dismissed by the District Judge, Fatehgarh Sahib, on 18.02.2014.

2. It is the contention of learned counsel for the appellant that unless there is a demarcation of the property which is mentioned in the suit, it cannot be ascertained as to whether some portion of 'Y' would fall within the share of the appellant-plaintiff and, therefore, not accepting the said plea of demarcation and consequentially if the property as mentioned at 'Y' is found to be within the share of the appellant-plaintiff, injunction deserves to be granted. He, thus, contends that the judgments and decree passed by the Courts below cannot sustain and deserve to be set aside.

3. I have considered the submissions made by learned counsel for the appellant and with his assistance, have gone through the impugned judgments but do not find myself in agreement with his contentions.

4. It has been admitted by the appellant-plaintiff, who appeared as PW-2, that property marked at 'X' is in his exclusive possession on the basis of the demarcation carried out at the spot on the basis of partition which is as per their respective shares. Further his own witness PW-1 Surjit Singh also admitted that after the partition and demarcation, the plaintiff and defendant were in possession of their respective shares and have also sold the properties. The apprehension which the appellant-plaintiff had projected qua the property shown as 'X' in the headnote has been duly protected as the said property has fallen to the share of the appellant-plaintiff. Since the partition has already taken place and it is an admitted case that as per the partition of the property, the appellant-plaintiff and respondent-defendant No.1 are in possession of their respective shares, the Courts have rightly declined the plea of the appellant-plaintiff with regard to injunction qua property described as 'Y' since it has fallen to the share of respondent No.1 after partition. Therefore, no ground for interfering in the present appeal is called for.

5. No other point has been raised or argued by the counsel for the appellant.

6. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record by both the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

7. No substantial question of law is involved in the present

appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

8. In the light of the dismissal of the appeal, the application for stay i.e. CM No.7835 of 2014, stands disposed of as infructuous.

March 15, 2016

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**