

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

124

RSA No.2333 of 2010 (O & M)
Date of Decision:04.12.2017

Singh Ram

...Appellant

Versus

Mihan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjiv Gupta, Advocate
for the appellant.

Mr. O.P.S. Tanwar, Advocate
for the respondents.

ANIL KSHETARPAL, J.(Oral)

Defendant No.1-appellant is in regular second appeal against the concurrent findings of fact arrived at by the Courts below.

Plaintiff had filed a suit for permanent injunction restraining the defendants from interfering in his peaceful possession qua suit property.

On the other hand, defendant contested the suit claiming that the property is joint between the parties and construction has been raised by defendant No.1.

Both the Courts after appreciating the evidence available on the file and after noticing that in the partition proceedings this property has fallen to the share of the plaintiff, decreed the suit.

I have heard learned counsel for the parties at length.

At the time of admission, this Court framed the following substantial questions of law:-

“(i) Whether once the appellant is proved to be in possession of Kotha in question in khasra No.50/5, the

possession of the appellant can be taken away except in due course of law?

(ii) Whether there exists misreading, misinterpretation, misconstruing and misrepresentation of the pleadings and evidence?”

In the considered opinion of this Court, both the questions would be required to be answered against the appellant because it is not disputed before me that in the partition proceedings Khasra No.50/5 has fallen to the share of the plaintiff. Once in partition proceedings, the land in dispute gone to the share of the plaintiff, appellant cannot claim any right, title or interest in the property. Partition between the parties by the Revenue Authorities has not been disputed before me.

Still further, learned counsel for the appellant could not point out any misreading or non-reading of evidence or the pleadings by the Courts below.

Taking into consideration the aforesaid facts, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Hence, this regular second appeal is dismissed.

Questions of law are accordingly answered against the appellant.

04.12.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No