

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

385

RSA No.1152 of 1990 (O&M)

Date of decision: 24.01.2018

Kapoor Singh etc.

..... Appellants

Versus

Balwant Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. D.S. Pheruman, Advocate with
Mr. Tarundeep Kumar, Advocate
for the appellants.

Mr. Malkeet Singh, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs-appellants are in regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiffs had filed a suit for declaration challenging the order passed by the Assistant Collector and Collector dated 29.09.1986 and 28.11.1986 respectively. It was claimed that such orders were illegal, null and void.

The order dated 29.09.1986 is passed by the Assistant Collector during partition proceedings whereas the order dated 28.11.1986 was passed when the appeal filed by the plaintiffs was dismissed.

Both the Courts after appreciating the evidence available on the file have held that the jurisdiction of the Civil Court is barred under Section 158 of the Punjab Land Revenue Act.

Learned counsel for the appellants could not point out that how the order passed by the competent authorities under the Punjab Land Revenue Act while adjudicating upon application for partition can be challenged in the Civil Court. Learned counsel for the appellants has submitted that since question of title was involved, hence, the Civil Court had jurisdiction. It may be noted here that if during the partition proceedings, question of title is raised, the Assistant Collector has two options. One to proceed to decide the question of title himself and second to refer the parties to the Civil Court. Once the Assistant Collector has not referred the parties to the Civil Court, the Civil Court does not get jurisdiction. In any case, both the Courts have found that before the Assistant Collector, no question of title was raised.

In view thereof, there is no scope for interference with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

24.01.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No