

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

373

RSA No.464 of 1990 (O & M)
Date of Decision:23.01.2018

Chandgi Ram and others

...Appellants

Versus

Udmi (through LRs)

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. A.K. Ahluwalia, Advocate
for the appellants.

Mr. Raj Kumar Gupta, Advocate
for the respondent.

ANIL KSHETARPAL, J.(Oral)

Defendants-appellants are in the regular second appeal against the judgment passed by the learned First Appellate Court decreeing the suit filed by the plaintiff-respondent for permanent injunction. It was the case of the plaintiff-respondent that the property i.e. measuring 2 kanals and 10 marlas is jointly owned and the defendants want to raise construction on the disputed portion.

On the other hand, the defendants contested the suit and claimed that the entries in the revenue record are incorrect and they had purchased the property from one Shri Anoop Singh.

Learned trial Court dismissed the suit. However, the learned First Appellate Court reverse the finding of the learned trial Court after noticing that the plaintiff was one of the co-owners even before the partition of the country. His two brothers had shifted to Pakistan but he had never

shifted to Pakistan. Hence his share would not vest with the custodian department. Defendants are claiming the property on the basis of a sale of property by custodian department in favour of Anoop Singh. One of the co-owners has not shifted to Pakistan and has remained in India, therefore, his share cannot vest in the custodian department. It is not in dispute that in revenue record, the plaintiff-respondent is being shown as one of the co-owner.

In view of what has been discussed above, this Court does not find any good ground to interfere with the judgment passed by the learned First Appellate Court.

Hence, this regular second appeal is dismissed.

23.01.2018
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(ANIL KSHETARPAL)
JUDGE

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