

102

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

RSA No. 1692 of 2016 (O&M)
Date of Decision: 08.08.2018

Satpal

....Appellant

Vs

Ram Mehar and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Birender Singh Rana, Sr. Advocate, with
Ms. Jasleen Kaur, Advocate,
for the appellant.

RAJ MOHAN SINGH, J.(Oral)

CM-4655-C-2016

For the reasons mentioned in the application, delay
of 50 days in filing the present appeal is condoned.

Application stands disposed of.

Main case (O&M)

1. Defendant No.4 is in regular second appeal. He also set up a counter claim in a suit for permanent injunction restraining defendants No.1 to 4 from raising construction over Khasra No.409, 410.
2. Plaintiff pleaded that father of the plaintiff, Jagdish and Ram Phal-defendant No.5 were co-sharers to the extent of 1/3rd share each. Jagdish sold 1/3rd share in favour of

defendants No.1 to 3.

3. Defendants No.1 to 3 contested the suit by saying that since they are co-sharers, no injunction can be issued against them. They also set up a counter claim for partition. Defendant No.4/appellant set up a claim that father of plaintiff namely Shri Parkash had sold 1/5th share in his favour vide affidavit dated 26.06.1986.

4. The trial Court decreed the suit qua defendant No.4 thereby restraining him from carrying out any activity as he was not co-sharer in the joint land. So far as other co-sharers are concerned, suit was dismissed.

5. Plaintiff-Raj Kumar filed appeal. Defendants No.1 to 3 also filed appeal before the lower Appellate Court. Defendant No.4 also filed cross-objections. Appeals filed by the plaintiff and defendants No.1 to 3 were allowed whereas cross-objections filed by defendant No.4/appellant were dismissed.

6. The appellant has preferred only one appeal. The appellant is not aggrieved by the acceptance of two appeals by the lower Appellate Court.

7. Since the appellant could not establish his title on the basis of affidavit dated 26.06.1986 nor he was found to be a co-sharer in the joint land, therefore, the findings of fact recorded by both the Courts below on appreciation of evidence cannot be

faulted with.

8. No question of law worth consideration is involved in the present appeal.

9. This regular second appeal is accordingly, dismissed in limine.

08.08.2018

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No