

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

RSA No.4740 of 2013 (O&M)

Date of Decision:02.05.2018

Sudarshan Kumar

...Appellant

Versus

Devinder Kumar and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.G.S.Nagra, Advocate for the appellant.
Mr.Deepak Bhardwaj, Advocate for respondents No.1 and 2.

ANIL KSHETARPAL, J.

The plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the learned courts below.

The plaintiff-appellant had filed a suit for declaration, claiming that he has a superior right of pre-emption under Section 22 of the Hindu Succession Act, 1956. The plaintiff and defendants No.3 to 5 being successors were joint owners of the shop. Defendants No.3 to 5 executed a sale-deed on 16.1.2004 in favour of defendants No.1 and 2 with respect to their share of shop, i.e. 3/4th. The plaintiff seeks to exercise his right of pre-emption under Section 22 of the Hindu Succession Act.

Both the courts below have concurrently held that the plaintiff was not having sufficient resources to purchase the share of defendants No.3 to 5. The evidence produced by the plaintiff has been discussed by the courts below and the courts also noticed that the plaintiff was getting encashed his Kissan Vikas Patras and was not having sufficient resources to purchase the share of defendants No.3 to 5.

Although learned counsel for the appellant made a sincere

effort to persuade this Court to take a different view, however, taking into consideration the concurrent findings of fact arrived at by the learned courts below which are not shown to be result of misreading or non reading of any substantive evidence, this Court does not find any substance in the matter.

Defendants No.1 and 2 had purchased 3/4th share of the shop for a sum of Rs.2 lacs. Still further, defendants No.3 to 5 have pleaded that they were in urgent need of money and the plaintiff was offered orally to purchase the share but he kept delaying the purchase hence he was not ready to purchase the property.

In view of the above, there is no good ground to interfere in the impugned judgments passed by the learned courts below. The present Regular Second Appeal is dismissed. Pending application(s), if any, shall stand disposed of.

02.05.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No