

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

RSA No.2988 of 2016 (O&M)

Date of decision:05.12.2018

Harjinder Singh

... Appellant

Vs.

Assa Ram and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr.Vipin Mahajan, Advocate
for the appellant.

Mr. Arun Abrol, Advocate
for the caveator-respondents.

AMIT RAWAL J. (Oral)

Notice of motion.

Mr. Arun Abrol, Advocate who is present in the Court, accepts
notice on behalf of the respondents.

The short point involved in the present appeal is whether the
plaintiff was having 2/5th share in khasra no.75 measuring 1 kanal, would
have 8 (eight) marlas or 10 (ten) marlas.

The plaintiff sought the injunction, who have raised the
construction over the plot measuring 10 (ten) marlas, qua forcible
interference and dispossession against the defendants. In support of the
aforementioned assertion, relied upon site plan, Ex.P1.

The defendants opposed the suit and stated that under the garb of injunction, the plaintiff attempted to cause interference into their peaceful possession and placed on record site plan, Ex.D1.

The Lower Appellate Court came to the finding that 2/5th share of 1 kanals would be 8 marlas and not 10 marlas and on the basis of site plan, Ex.D1 formed an opinion that the construction was on the area of 17.48 marlas.

Mr. Arun Abrol, learned counsel appearing on behalf of the respondents submitted that the defendants did not extend threats to the plaintiff with regard to the construction raised over khasra no.75 but under the concession of statement, the plaintiff cannot interfere into the peaceful possession of the defendants or in respect of ownership of plot and the construction raised, thereon.

This Court had also called the record and on examination of the jamabandi, Ex.P2, it is revealed that plaintiff's 2/5th share would not be 8 (eight) marlas but 10 (ten) marlas as he had also purchased the land from two other co-owners plus inheritance from his mother, therefore, the finding arrived at by the Court below regarding 8 (eight) marlas, is not correct and the same is hereby rectified.

Mr. Vipin Mahajan, learned counsel for the appellant on instructions from his client submitted that he would not interfere into the land owned by the defendants provided that defendants would also not interfere into khasra no.75 of the appellant-plaintiff.

In view of such fact, I deem it appropriate to dispose of the present regular second appeal by restraining the defendants, their agents, servants, assignees or representative from interfering into construction portion and vacant portion of 10 (ten) marlas in khasra no.75. Similarly, the plaintiff, his agents, servants, assignees or representative from interfering into the land owned by the defendants.

Regular Second Appeal is disposed of. Decree sheet be prepared accordingly.

December 05, 2018

savita

Whether Speaking/Reasoned

Whether Reportable

(AMIT RAWAL)

JUDGE

Yes/No

Yes/No