

RSA No.1993 of 2015

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

RSA No.1993 of 2015
Date of decision: 15.01.2018

Mani Ram

.....Appellant

versus

Ram Karan

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. C.R. Narwal, Advocate, for
Mr. Pankaj Mehta, Advocate, for the appellant.

RAMENDRA JAIN, J. (ORAL)

Through this Regular Second Appeal challenge has been laid to the judgment and decree dated 19.01.2015 of the First Appellate Court affirming the judgment and decree dated 21.02.2013 of the trial Court whereby suit of the appellant-plaintiff for declaration was dismissed.

In nutshell, the appellant-plaintiff filed a suit to declare him as owner in possession of some specific khasra numbers measuring 35 kanals 3 marlas and the defendant, who is none else but his real brother, as owner in possession of the land measuring 27 kanals 5 marlas having separate khasra numbers detailed in the plaint on the ground that a partition had taken place amongst them to which the respondent-defendant finally refused to accede to.

The respondent-defendant appeared and filed consented written statement admitting the claim of the appellant in toto. However, the trial Court as well as the First Appellate Court dismissed the suit and appeal on the ground that suit land was agricultural one and the suit virtually a

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partition suit was not maintainable being outside the domain of the civil Court in view of the provisions of Section 158 of the Punjab Land Revenue Act, 1887 (in short the 'Act'). It was also observed that appellant-plaintiff could approach the revenue authorities under Section 123 of the Act as the revenue officer had the power to determine the claim of partition of the appellant under Section 117 of the Act.

Learned counsel for the appellant, relying upon the judgment of the Hon'ble Supreme Court in ***Ganduri Koteswaramma and another v. Chakiri Yanadi and another***, 2012(3) Latest Judicial Reports 510, urged that there was no bar for the appellant-plaintiff to approach the civil Court as it was the choice of the appellant-plaintiff to adopt any of the legal recourse i.e. Either to approach the civil Court or the revenue authorities.

Having given anxious consideration to the submissions made by learned counsel for the appellant, I find the instant appeal completely devoid of any merit for the simple reason that no question of law muchless substantial arises for consideration in this appeal, therefore, the same is not maintainable inasmuch as civil Court jurisdiction is barred under Section 158 of the Act for dealing with any matter which falls within the exclusive domain of the revenue authorities.

Facts and circumstances of the judgment, referred to above, relied upon by learned counsel for the appellant are not identical to the facts of the present case, therefore, no benefit of the same can be given to the appellant.

There are concurrent findings against the appellant of both the Courts below. I have gone through the impugned judgments of both the Courts below and find no illegality or perversity in the same.

Resultantly, this appeal being devoid of any merit, is hereby

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dismissed with costs of ₹ 10,000/- to be deposited with the District Legal Services Authority, Hisar.

Copy of this order be sent to the Member Secretary, District Legal Services Authority, Hisar, for recovery of aforesaid costs from the appellant.

January 15, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.