

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

RSA No.3665 of 2016 (O&M)

Date of decision : 12.10.2018

Anokh Singh

...Appellant

Versus

Shamsher Singh and others

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Veneet Sharma, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.1-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

The plaintiffs have sought a decree for declaration claiming that they have purchased the land measuring 7 kanals 10 marlas out of total land measuring 104 kanals being an undivided share vide sale deed dated 06.03.2002.

The defendants contested the suit and pleaded that there was a family settlement between the parties and the property had been divided.

Both the Courts on appreciation of the evidence, have found that the defendants have failed to prove their plea of partition by way of family settlement. Hence, both the Courts have granted a decree for declaration that the plaintiffs are owner in joint possession of the property.

Learned counsel for the appellant has submitted that the

plaintiffs are wanting to execute the decree.

In the considered view of this Court, the argument is factually incorrect as the decree passed is only for declaration and joint possession. Everyone is co-sharer as per the declaration granted. Hence, the remedy is now to seek partition.

In view thereof, there is no ground to interfere with the concurrent findings of fact arrived at by both the Courts below .

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

12.10.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No