

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

137

RSA No.3751 of 2016 (O & M)
Date of Decision:14.08.2018

Sukhmander Singh

...Appellant

Versus

Gurdial Kaur (deceased) through LRs

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Dr. Dayal Partap Singh Randhawa, Advocate for
Mr. Parampreet Singh Brar, Advocate
for the appellant.

ANIL KSHETARPAL, J.

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the Courts below.

Plaintiff while filing the suit had primarily challenged a sale deed executed by defendant No.2 in favour of defendant No.1 dated 09.07.2007. Plaintiff claimed that he is a co-owner in the property in dispute. Plaintiff also claimed that he is entitled to relief of injunction restraining the defendants from selling more than their share.

Defendant contested the suit on the ground that partition application between the parties is pending.

Both the Courts after examining the evidence available on the file, dismissed the suit filed by the plaintiff. Main contest between the parties was whether defendant No.2 has sold more land out of khewat No.781 vide sale deed dated 09.07.2007 than his share.

Both the Courts have found that the plaintiffs and defendant No.2 are co-sharers in both the khewats and application for partition of the property is pending. Rather the learned First Appellate Court has found that the plaintiffs' share has been separated and he has been allotted land abutting the road in both the khewats.

The learned First Appellate Court have further noticed that partition has been finalized and which has attained finality. Hence, the Courts have found that the suit filed by the plaintiff has become infructuous.

Learned counsel for the appellant could not point out any error either in appreciation of evidence or in noticing the facts by the Courts below.

In view thereof, there is no ground to interfere.

Regular second appeal is dismissed.

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

14.08.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No