

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

Regular Second Appeal No. 468 of 2016 (O&M)
Date of decision: 18.9.2018

Anup Kumar

... Appellant

Versus

Ajaybir Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naresh Kumar Kaushik, Advocate,
for the appellant.

ANIL KSHETARPAL, J.

CM-1352-C-2016

For the reasons mentioned in the application, delay of 47 days
in re-filing the appeal is condoned.

RSA-468-2016

The plaintiff-appellant is in the regular second appeal against
the concurrent findings of fact arrived at by both the courts below while
dismissing the suit filed by the plaintiff for permanent injunction restraining
the defendants-respondents from interfering in his possession or
encroaching upon the property by raising construction.

The plaintiff claims that he has purchased 2K-4M of land from
Smt. Atro Devi vide registered sale deed dated 6.6.2002.

The defendants contested the suit and pleaded that the
defendants are owner in possession of land as one Jagwati was owner who
had relinquished the property in their favour.

the Court with clean hands. The plaintiff had concealed the fact that he had sold 100 square yard plot to Nafi Sunisa. The Court further held that the plaintiff at the most has a right to seek partition. Even the counter claim filed by the defendants for passing a decree of permanent injunction was dismissed.

Only one appeal was filed by the plaintiff-appellant which was also dismissed after re-appreciating the evidence. The first appellate court noted that when the plaintiff appellant appeared in evidence, he admitted that defendants No.2 to 5 are in possession of the property. It was further admitted by the plaintiff that no partition of the property has taken place, therefore, the court while observing that since the partition has not taken place and the plaintiff is admittedly not in possession, dismissed the appeal.

This Court has heard learned counsel for the appellant at length and with his able assistance, gone through the judgments passed by both the courts below.

Learned counsel for the appellant although made sincere attempt to persuade this Court to take a different view, however, keeping in view the findings of fact which have been noticed in the previous paragraphs which are neither shown to be perverse nor erroneous nor result of mis-reading or non-reading of evidence, this Court does not find any good ground to interfere in the concurrent findings of fact.

Accordingly, the appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

September 18, 2018
Paritosh Kumar