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

RSA No.6497 of 2016

Date of Decision: 04.07.2018

Sakhi Chand

....Appellant

Vs

Prem Chand (since deceased) through LRs and another

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Rai Singh Chauhan, Advocate,
for the appellant.

RAJ MOHAN SINGH, J.(Oral)

1. Plaintiff is in second appeal in a suit for partition of a Haveli which was purchased by plaintiff and the defendants jointly vide sale deed dated 21.06.1971 registered on 23.06.1971.

2. The parties claimed 1/3rd share in the joint Haveli. Previously, Pawan Kumar son of defendant No.1 filed a suit for permanent injunction in which interim order was refused. Plaintiff also filed a suit for permanent injunction wherein stay was granted. Pawan Kumar ultimately got the suit dismissed as withdrawn on 03.02.2006. Plaintiff also withdrew the suit as defendant-respondent No.1 statedly assured that the defendants would not interfere in the possession of the plaintiff.

3. Plaintiff asserted that defendant-respondent No.1 took forcible possession of the suit land on 16.02.2006 resulting in filing of civil Suit No.58 of 07.03.2006 for possession. The suit filed by the plaintiff was dismissed on 25.03.2008. Plaintiff remained unsuccessful even in appeal before the lower Appellate Court which was dismissed on 21.05.2009.

4. The factum of partition dated 13.10.1983 (Ex.D1) and 03.11.1983 (Ex.D2) was established. A finding has been recorded by the Court that the plaintiff has already sold his share to Bahadur Singh in the year 1987. Title in favour of parties was acknowledged on the strength of Ex.D1 and Ex.D2 in the previous litigation culminated in dismissal of the suit on 25.03.2008.

5. The present suit has been preferred for partition of the Haveli by the plaintiff.

6. Both the Courts below have recorded a firm finding of fact that title based on partition Ex.D1 and Ex.D2 stands established. In earlier litigation, the plaintiff was dispossessed. Subsequent to the partition, the remedy available to the plaintiff was to seek possession in accordance with law.

7. The plea of possession by way of civil suit No.58 dated 07.03.2006 has already been negated by the competent Court and the same was upheld in appeal by the lower Appellate

Court on 21.05.2009.

8. The findings recorded by the Courts below cannot be faulted with on perversity or mis-reading of evidence on record.

9. No substantial question of law is involved in the present appeal.

10. This regular second appeal is accordingly, dismissed.

04.07.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No