

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Regular Second Appeal No. 668 of 2016
Date of decision : April 26, 2018

Lichma

....Appellant

versus

Dharmpal and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Divay Sarup, Advocate, for the appellant

Fateh Deep Singh, J. (Oral)

Heard Mr. Divay Sarup, counsel for the appellant and perused the records.

The admitted facts are that the present appellant who also happens to be the plaintiff-Lichhma had filed a suit for permanent injunction that official defendants now respondents no. 2 to 4 be restrained from auctioning specific khasra numbers of the land detailed in the suit.

The brief grounds are that she happens to be the owner of the land to the extent of $\frac{1}{4}$ share out of the total land measuring 422 kanals 16 marlas alleging that defendant no. 1 Dharampal who happens to be son of her brother in law (Jeth) at her back pledged specific khasra numbers measuring 60 kanals without partition and obtained loan of Rs 9.85 lacs from official respondents which has swelled to Rs 12,25,409/- regarding

which official respondents had called upon them to pay and after failure issued sale letter dated 13.3.2006 and hence the suit in question.

The suit was dismissed by the trial court of learned Additional Civil Judge (Senior Division), Hisar through judgment dated 24.8.2012 and which finding was upheld by the learned Additional District Judge, Hisar through impugned findings dated 24.8.2015 and hence the present regular second appeal.

Appreciating the submissions, the own stand of the appellant that it was un-partitioned agricultural land out of which Dharampal had mortgaged to the official respondents land to the extent of his share for facilitating loan and thus as is even accepted by counsel for the appellant only to the extent of share in the land so mortgaged is amenable to recovery of the amount as even Dharampal cannot mortgage land more than his share as per the revenue record. The recourse available to the plaintiff is to get the land partitioned and can by no means through such frivolous suit for permanent injunction thwart the efforts of the instrumentality of the State for the recovery of loan amount which they are acting in pursuance of their own rules and regulations. The courts below have rather gone to the extent of holding that the suit is an outcome of machination between the plaintiff and Dharampal to frustrate endeavor of the recovery of the loan amount. Counsel for the appellant could not impress this Court nor could answer the query of the Court as to how by filing suit for permanent injunction, the plaintiff now appellant could stall the authorities from carrying on their

official functions. The two courts below have rightly returned the findings against the appellant. The appeal being hopelessly without any merit stands dismissed in limine.

April 26, 2018
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(Fateh Deep Singh)
Judge

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>