

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.6877 of 2016 (O&M)

Date of decision: 12.09.2018

Nathu (deceased) through his LRs

..... Appellants

Versus

Diwan Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- None.

ANIL KSHETARPAL, J. (ORAL)

Called twice, however, no one has come present to assist this Court. It has been noticed that on 08.09.2017 also, no one had come present on behalf of the appellant also.

Plaintiff-appellant through his legal heirs is in the regular second appeal against the concurrent finding of fact arrived at by the Court below while dismissing the suit for permanent injunction and in alternative relief of mandatory injunction. Both the Courts have found that the parties are co-sharers and the plaintiff has failed to prove his exclusive ownership. The Courts have further found that the remedy for the appellant is to seek the partition.

In the ground of appeals, the following substantial questions of law have been proposed:-

“(i) Whether the appellant/plaintiff is the owner in possession of the suit property?”

“(ii) Whether the appellant/plaintiff is entitled for decree of mandatory injunction or not, especially when he has by

documents and by evidence proved his case?

(iii) Whether the impugned judgment/decrees passed by the Ld. Appellate Court, Gurgaon as well as judgment and decree passed by the Court of Ld. Civil Judge (Jr. Divn.) Pataudi are liable to be set aside being illegal, void, unconstitutional against the provisions of the act can be sustained in the eyes of law?"

On careful examination of the aforesaid questions, it is apparent that the questions which are proposed are not the questions of law. Still further, in the grounds of appeal, neither any perversity in the judgments passed by the Courts below have been pointed nor any misreading or non-reading of evidence has been pleaded.

In view thereof, there is no scope for interference with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

12.09.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No