

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

RSA No.5555 of 2015 (O&M)

Date of decision : 12.11.2018

Darshan Singh

...Appellant

Versus

Bhagwant Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Mukand Gupta, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Arguments have been heard at length. The dispute in the present case is with regard to the partition of house measuring 944 square yards. The plaintiff claims that he purchased half share of the property and, therefore, he is entitled to seek partition.

Learned First Appellate Court, on appreciation of the evidence, have found that the original owner namely Bhagwant Singh had entered into two agreement to sells on the same day, one was with the plaintiff which was for a sum of ₹20,00,000/- and the plaintiff was put in possession of specific portion of the house, second agreement was with Gurpreet Singh for a sum of ₹40,00,000/-, possession whereof continued with the owner i.e. defendant. The deal for purchase of remaining half share did not mature. It may be significant to note here that the plaintiff-appellant has signed as a witness to the agreement to sell executed by Bhagwant Singh in favour of Gurpreet Singh. The agreement to sell in favour of Darshan Singh-plaintiff specifically records that he has been put in possession of portion which has been sold to him.

Learned counsel for the appellant in Court has read the agreement

to sell, execution whereof is not disputed, wherein it is specifically recorded that the plaintiff has been put in possession of the share which has been purchased by him.

From the perusal of the record, it is apparent that the entire house in question has two openings, one is of 14 feet wide lane whereas second opening is in the lane 8 feet wide. It has also come in evidence that the defendant-owner had agreed to sell portion with Gurpreet Singh which was having construction upto two storeys. It is not the case of the plaintiff that he is in possession of lesser area than what he had purchased. The cogent reasons have given by the learned First Appellate Court on appreciation of evidence.

In these circumstances, the First Appellate Court has rightly concluded that the plaintiff cannot claim that he is co-sharer in the house in question. Bhagwant Singh was sole owner of the property. He sold specific portion of the property through a registered sale deed and put plaintiff-appellant in possession.

No doubt, in the sale deed registered in favour of the plaintiff, only half share of the entire property has been mentioned, however, the sale deed has to be read in conjunction with the agreement to sell which specifically records that the possession of the land agreed to be sold to the plaintiff has been delivered to him at the time of execution of the agreement to sell.

In such circumstances, the plaintiff does not become co-sharer in the entire house. Hence, there is no ground to interfere.

Regular Second Appeal is dismissed.

12.11.2018

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No