

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

**RSA No.752 of 2016
Date of Decision: 07.09.2018**

Jagroop Singh

.....Appellant

Versus

Sukhvir Singh & others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Mayank Mathur, Advocate
for the appellant.

ANIL KSHETARPAL J.(ORAL)

Plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of the facts arrived at by the Courts below while dismissing the suit filed by the plaintiff for declaration to the effect that there is a gair mumkin well and deletion of entry of passage in the subsequent revenue record is illegal and a mandatory injunction be issued, directing the respondents to restore the passage of the well.

It is not disputed that the parties are co-sharers in the land. It is further not in dispute that partition proceedings are pending. Both the Courts below have held that once partition proceedings are pending, it would be more appropriate if the competent authority under the Punjab Land Revenue Act 1887, decides the entire dispute. However, learned counsel for the

RSA-752-2016

appellant submitted that there are certain wrong entries in the revenue record, which cannot be corrected by the revenue officials. To this extent, learned counsel for the appellant is correct because any entry in the Jamabandi can only be corrected by the Civil Court while exercising powers under Section 45 of the Land Revenue Act, 1887.

However, before ordering correction, Civil Court is required to return a finding as to which portion has fallen to the share of each of the co-sharer. It is not in dispute that while partitioning the property, competent authority under the Land Revenue Act 1887, also entitled to make an arrangement for passage.

Hence, the appeal is disposed of, with a request to the Revenue Authorities, to decide the entire matter while deciding the proceeding for partition of the land, as also requirement of passage to the well, if there is any inexistence or required.

Regular Second Appeal is disposed of.

(ANIL KSHETARPAL)
JUDGE

September 07, 2018

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No