

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

R.S.A No.921 of 2016(O&M)

Date of decision :14.08.2018

Hari Singh (deceased) through LR Preetam

..... Appellant

Versus

Surat Singh and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL

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

LISA GILL,J.

The present appeal has been filed against the judgment and decree dated 31.10.2011 passed by the learned Addl. Civil Judge (Sr. Division), Jhajjar, whereby the suit filed by the plaintiff-respondents has been decreed, as well as judgment and decree dated 07.10.2015, passed by the learned District Judge, Jhajjar, whereby appeal filed by the present appellant/defendant has been dismissed.

Brief facts necessary for the adjudication of the case are that respondents no.1 and 2 and Umed Singh filed an application for final decree against the appellant and respondents no.3 to 12 in the Court of Civil Judge (Sr. Division), Jhajjar, while stating that they had filed a suit bearing No. 671 of 1992 for partition against the appellants and others which was decreed by the Civil Judge (Jr. Division), Jhajjar vide preliminary decree dated 03.11.1999. Local Commissioner was appointed. Report dated 08.02.2011 suggesting the mode of partition was

submitted by the Local Commissioner. Preetam Singh along with his brother Duli Chand sons of Hari Singh (legal representatives of Hari Singh) filed their objections against the report of the Local Commissioner. Their objections were dismissed vide impugned decision dated 31.10.2011, wherein it was specifically held that the Local Commissioner has properly demarcated and measured the entire suit land. The total area to be partitioned was calculated as 2446 square yards. Local Commissioner considered the respective shares of the co-sharers in the suit land. The mode of partition as proposed was accepted and while dismissing the objections filed, the final decree in furtherance thereof was passed.

Appeal filed by the present appellant alongwith his brother-Duli Chand was dismissed by the learned District Judge, Jhajjar, vide decision dated 07.10.2015. Aggrieved therefrom, the present appeal has been filed.

Learned counsel for the appellant vehemently argues that the present appellants are the only ones who are with an access of only 4 ½ /5 feet to their land, whereas the other co-sharers have got access to their land through a much wider passage i.e. about 16 ½ to 20 feet. Therefore, the mode of partition as suggested should not have been accepted. Reference is made to the site plan.

I have heard learned counsel for the appellant and have gone through the file with his able assistance.

It is not disputed by learned counsel for the appellants that each of the co-sharers have been afforded consolidated land at one place,

though, it is contended that land comprised in khasra no. 205/1, 205/2 has been alienated by some of the co-sharers. Appellants have been given the portion of land marked as 2 and 3 in the said site plan. A perusal of the site plan reflects that in case argument raised on behalf of the appellant is accepted, it shall necessarily lead to fragmentation of the property in the hands of the co-sharers. Clearly the said course would be improper and unjust. The objectors had admitted that construction had been raised by them on the suit land to the extent of their share. There is no merit in the arguments raised on behalf of the appellant.

No other argument has been raised.

Learned counsel for the appellant-defendants is unable to point out any question of law much less substantial question of law which may be involved for consideration in this regular second appeal. Both the learned Courts below have rendered well reasoned and correct decisions.

Keeping in view the facts and circumstances as discussed above, I do not find any infirmity, illegality or perversity in the impugned judgments and decree dated 31.10.2011 and 07.10.2015 passed by the learned Addl. Civil Judge (Sr. Division) Jhajjar and learned District Judge, Jhajjar, respectively, which warrant any interference by this Court.

Present appeal is, consequently, dismissed with no order as to cost.

14.08.2018

s.khan

**(LISA GILL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No