

132

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

RSA No. 129 of 2017 (O&M)

Date of Decision: 11.09.2018

Chhiminder Singh

....Appellant

Vs

Balbir Singh and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. P.S. Jammu, Advocate,
for the appellant.

RAJ MOHAN SINGH, J.(Oral)

In a suit for declaration and permanent injunction, no evidence was led by the plaintiff and the suit was dismissed under Order 17 Rule 3 CPC.

Plaintiff filed a suit to the effect that the plaintiff and proforma defendant are co-owners in possession of equal shares of the suit land and civil court decree dated 20.10.1993 passed by Sub Judge Ist Class in Civil Suit No.737 of 1993 was illegal.

Plaintiff could not lead any evidence in respect of the land being Hindu Undivided Family Property and ancestral in nature. In the absence of any evidence led by the plaintiff, the suit was dismissed under Order 17 Rule 3 CPC forthwith.

In the appeal filed before the lower Appellate Court,

no application under Order 41 Rule 27 CPC was filed for leading any evidence before the lower Appellate Court. The lower Appellate Court also dismissed the appeal on the ground that there is nothing on record to assail the judgment and decree passed by the trial Court. The appeal before the lower Appellate Court was also barred by limitation.

Keeping in view the controversy on record, it is a case of no evidence. No question in respect of preponderance of probability arises. The findings recorded by both the Courts below cannot be held to be on account of mis-reading of evidence as there is no evidence on record nor the same can be held to be perverse.

No question of law is involved for consideration in the present appeal.

This regular second appeal is accordingly, dismissed in limine.

Since the main appeal has been dismissed in limine, therefore, there is no necessity to pass any order in the pending applications.

11.09.2018

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No