

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

109

RSA No.2970 of 2018 (O&M)

Date of decision: 17.11.2018

Sher Singh

..... Appellant

Versus

Kamla

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. C.B. Goel, Advocate
for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the regular second appeal against the judgment passed by the learned First Appellate Court reversing the judgment of the trial Court resulting in dismissal of the suit filed by the plaintiff for permanent injunction.

It is not in dispute that the nephew of the plaintiff sold 2 kanals and 17 marlas of land vide sale deed dated 19.06.2015, of course, undivided share but delivery of actual physical possession has been duly recorded in the sale deed produced on the file. It is also not in dispute that the partition proceedings are pending. The defendant when appeared in evidence has specifically stated that her family is owner of the adjoining land and she was delivered possession of the land sold from Killa No.2.

Plaintiff filed the suit by claiming that he is in exclusive possession of the land comprised in various khasra numbers including Killa No.2 by way of family settlement and now the defendant wants to destroy

his crop standing in Killa No.2. However, when he appeared in evidence, he admitted that he is not in possession rather he is in possession through his tenant Rajvir to whom he has given the land on lease. In the present case, there is a document i.e. a registered sale deed which records the actual delivery of possession. The plaintiff on the one hand, claims that he is in possession on the basis of family settlement but still files partition proceedings which are stated to be pending, therefore, it would not be appropriate for the Court to record any finding on the correctness of the plea with respect to family settlement. The defendant-purchaser who has purchased the property through a registered sale deed from the nephew of the plaintiff is not alleged to be in possession of the land more than what has been purchased by her. The remaining disputes are to be decided by the authorities before whom the partition proceedings are pending.

In view thereof, there is no ground to interfere.

Appeal is dismissed.

17.11.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No