

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 101

RSA-520-2017 (O&M)

Date of decision : 31.08.2018

Padmini

..... Appellant

VERSUS

Mahender Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sandeep Goyatt, Advocate, for the appellant.

DEEPAK SIBAL, J. (ORAL)

The appellant filed a suit seeking therein permanent injunction on the ground that she was owner in possession of the house detailed and described in the headnote of her plaint and which was situated within the *Lal Dora* of *Abadi Deh* of village Balsamand, Tehsil Balsamand, District Hisar (for short, the suit property). According to her, the respondents, who were arrayed as defendants to the suit, were anti social elements and had no concern with the suit property which was presently in a dilapidated condition. The appellant wanted to reconstruct the same by demolishing some parts of it but the respondents were not letting her to do so. She lodged a police complaint but no action was taken by the police leaving her with no option but to file the instant suit. On being put to notice, the respondents appeared before the Trial Court and denied the claim set up by the appellant. They stated that the suit property was owned by one Molu Ram who was the predecessor-in-interest of both the parties to the suit and it is he who had made construction on the suit property. Molu Ram expired in the year 2000 and during his lifetime, through a registered Will, had bequeathed his properties, including the suit property, to his three sons

which included the appellant's husband's father as also respondent No. 1. Thus, his three sons became owners in possession of the suit property in equal shares. One of the sons of Molu Ram namely Bir Singh expired in the year 1999 and after his death his share was also inherited by his surviving brothers. It was submitted that since the suit property was jointly owned by the respondents, the appellant had no right to seek injunction.

The Trial Court after sifting the evidence which had come on record dismissed the appellant's suit. She preferred an appeal against such dismissal which met the same fate as her suit, giving her a cause to file the present second appeal.

With an attempt to prove her ownership and possession over the suit property, the appellant relied upon a report of the Tehsildar Ex. P2, as per which the suit property was ancestral. Even the appellant and her husband while appearing before the Trial Court as PW-2 and PW-3 respectively admitted the nature of the suit property to be ancestral. The appellant also admits the respondents to be the uncles/cousins of her husband.

In view of the above, both the Trial Court as also the Appellate Court are rightly found to have denied the relief of injunction to the appellant as such relief was being claimed by her against the respondents who are co-sharers in the suit property which is ancestral in nature. It has further rightly been concluded by both the Trial Court as also the Appellate Court that in the facts of the present case the proper remedy for the appellant was to seek partition of the suit property.

No error is found in the concurrent findings of fact returned by both the Trial Court as also the Appellate Court and no question of law much less any substantial question of law is found to arise in the present appeal.

Dismissed.

31.08.2018
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes	/	No
Whether reportable	:	Yes	/	No