

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

RSA No. 6289 of 2017(O&M)

Date of decision: 25.1.2018

Puran Chand since deceased through LRs and othersAppellants

VERSUS

Lakhmi Chand and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Pankaj Bali, Advocate for the appellants.

REKHA MITTAL, J.

The present appeal directs challenge against consistent findings recorded by the Courts below whereby suit for declaration with consequential relief of permanent injunction filed by the appellants/plaintiffs was dismissed by the trial Court vide judgment and decree dated 18.05.2015 and findings recorded by the trial Court have been affirmed in appeal by the Additional District Judge, Karnal.

Counsel for the appellants has submitted that the appellants have already filed an application for partition of the joint land which is pending consideration before the Revenue Authorities. The sole submission made by counsel is that once the Civil Court is held to be lacking jurisdiction to decide the suit being barred under Section 158(vi) of the Punjab Land Revenue Act, 1887 (in short 'the Act'), the Courts should not have recorded any findings qua merits of the case. To bring home his

contention, he has pointed out certain observations recorded in para 17 of the judgment passed by the trial Court.

Be that as it may, the Courts have negated plea of the appellants seeking declaration to challenge order dated 11.03.2011 regarding correction in khasra girdawari by holding that jurisdiction of the Civil Court is barred under Section 158 of the Act. It appears that since the appellants raised an issue that the Civil Court has the jurisdiction to examine the impugned order, the Court has gone into the question if the impugned order was passed by concerned officer in violation of principles of natural justice, to bestow jurisdiction upon the Civil Court or otherwise. In this view of the matter, I am unable to accept contention of the appellants that the Courts should have refrained from making observations, if the impugned order was passed after providing an opportunity of hearing to the parties or otherwise. As a matter of fact, the instant appeal does not give rise to a question of law, to be decided in Regular Second Appeal.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

JANUARY 25, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no