

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

RSA No.6315 of 2017 (O&M)

Date of Order: 22.11.2018

Gurpartap Singh Sandhu

....Appellant

Versus

Gurmukh Singh and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

AMIT RAWAL, J (ORAL)

Appellant-plaintiff has not been successful in claiming declaration as also consequential injunction against the defendants, who are none else but his brothers in respect of the suit property on account of demise of Hardip Singh.

It was alleged that father of the plaintiff never executed any document in favour of the defendants and that defendant Nos.2 to 6 were proceeded against ex parte. Defendant No.1 contested the suit and propounded two sale deeds dated 23.4.1990 and 28.2.1978.

On the preponderance of evidence led by the parties, the learned trial Court dismissed the suit and the appeal preferred by the plaintiff met with the same fate before the learned lower Appellate Court.

Learned counsel for the appellant submitted that both the courts below fell in grave error while dismissing the suit as no document was ever executed by Hardip Singh during his life time in favour of respondent No.1 and thus respondent No.1 was not having any exclusive right over the suit

property.

I am afraid that the aforesaid argument is not sustainable, for, the primary relief sought in the suit was of co-owner and once defendant No.1, who is brother of the plaintiff, was found to be having exclusive right over the suit property, said relief could not be granted. In the absence of primary relief being granted, second relief is meaningless. Plaintiff has miserably failed to establish his exclusive possession over the suit property on the basis of any documentary evidence.

No other point has been raised.

Dismissed.

November 22, 2018
manoj

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No