

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.760 of 2019(O&M)
Date of Decision: 12.07.2019

Madan Pal @ Madan Pal Singh

... Appellant

Versus

M/s Bhatinda Chemicals Pvt. Ltd. & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

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

RAMENDRA JAIN, J.(Oral)

Through this regular second appeal, the appellant has laid challenge to judgement and decree dated 25.09.2018 of the Appellate Court, affirming the judgment and decree dated 17.04.2017 of trial Court.

Briefly, the respondents after purchasing the shares of the brothers of the appellant became co-sharer with him and to avoid any confrontation, filed a suit for partition before the revenue authorities, which was accepted after tooth and nail contest of the appellant.

Appeal filed by the appellant against the partition order, after its implementation on the spot, was dismissed by the Appellate Authority. The partition order in favour of the respondents attained finality being not further challenged by the appellant.

Thereafter, appellant filed a suit for permanent and mandatory injunction claiming his right over a passage laying challenge to the partition order and to restrain the respondents from causing any hindrance in the use of the same by him.

The trial Court after holding trial dismissed the suit vide judgment and decree dated 17.04.2017.

Being aggrieved, the appellant approached the First Appellate court, but remained unsuccessful as his appeal too was dismissed vide judgment dated 25.09.2018.

Learned counsel *inter alia* contends that both the Court failed to appreciate that the appellant had no other passage to approach his agricultural land except the disputed one, which he was using since long. Thus, easement rights had also accrued in his favour. Both the Courts below also illegally ignored a letter dated 04.09.2003 (Ex. P-9) issued by BDPO, affirming passage in dispute, running on the spot.

Having given thoughtful consideration to the submissions made by learned counsel for the appellants, this Court finds the instant appeal completely devoid of merit for the reasons to follow.

No question of law much less substantial has been raised in this regular second appeal. Therefore, the same is held not maintainable.

The appellant miserably failed to prove his alleged easementary right over the passage in dispute, which was never carved out by the revenue authorities on the spot. Both the Courts below have recorded concurrent findings against the appellant that there was no such passage on the spot. The letter Ex. P-9 written by BDPO, if any, since is contrary to the revenue record, therefore, the same has rightly been ignored by both the Courts below.

I have gone through the concurrent findings of both the Courts below and found no illegality or perversity in the same.

The instant appeal is dismissed.

12.07.2019
monika

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No