

RSA No.968 of 2019 (O&M)

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

RSA No.968 of 2019 (O&M)
Date of decision: 29.11.2019

Bhopal and others

.....Appellants

versus

Sheopal Singh deceased through his legal heirs and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. R.A. Sheoran, Advocate, for the appellants.

RAMENDRA JAIN, J. (ORAL)

Defendants have filed this Regular Second Appeal against judgment and decree of the lower appellate Court dated 23.10.2018, accepting appeal of the respondents No.1 and 2-plaintiff, declaring the suit land amongst the parties as joint holding after acting upon partition agreement dated 31.05.1966 (Ex. P-12).

Briefly, respondents No.1 and 2-plaintiff filed a suit to give effect of partition deed dated 31.05.1966 (Ex. P-12) in the revenue record. Trial Court, after due notice to the appellants and proforma defendants, dismissed the suit vide judgment and decree dated 21.07.2014.

Being aggrieved, respondents No.1 and 2 approached the lower appellate Court and succeeded in their aforesaid claim vide judgment and decree dated 23.10.2018.

Learned counsel for the appellants *inter alia* contends that the lower appellate Court failed to appreciate that suit of respondents

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No.1 and 2 being hopelessly barred by limitation and also under Order 2 Rule 2 CPC was liable to be dismissed in view of the fact that in a suit filed by LR's of Bhuru, respondents did not claim above relief, which they now claimed in their present suit. Respondents No.1 and 2 were estopped by their own act and conduct to file the present suit.

Having given thoughtful consideration to the above submissions, this Court finds the instant appeal completely devoid of any merit for the reasons to follow.

All the appellants are signatory to partition deed dated 31.05.1966 (Ex.P-12) wherein suit land was left for use of common purposes. However, same was omitted to be incorporated in the revenue record, may be due to oversight and inadvertence of either of the parties for which appellants-defendant did not suffer any loss. Thus, there is no illegality, in case, respondents No.1 and 2-plaintiff have been permitted to get the same incorporated in the revenue record, which is not going to prejudice the rights of the appellants, in any manner.

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

I have gone through impugned judgment of the lower appellate Court and find no illegality or perversity in the same.

Dismissed.

November 29, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No