

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

RSA No.1368 of 2014 (O&M)

Date of decision : 11.03.2019

Beant Singh

...Appellant

Versus

Gurpreet Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jai Bhagwan, Advocate for the appellant.

Mr. A.K. Garg, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below dismissing suit for permanent injunction restraining the defendants from raising construction.

It is the case of the plaintiff that the property in dispute i.e. 4 bighas and 1 biswa is joint, unpartitioned land and the defendants cannot be permitted to raise construction without seeking partition.

Defendant No.2 contested the suit and pleaded that he is constructing the house in accordance with his share whereas remaining two brothers have already constructed their respective houses.

Both the Courts have found that the plaintiff after constructing his own house, is not permitting defendant No.2 to construct his house. The

Courts found that there is no equity in favour of the plaintiff particularly when he himself has raised construction on the property.

Learned counsel for the appellant submitted that since as per the revenue record, the property is joint, therefore, the plaintiff has 1/3rd share in the property in dispute and without partition, the defendants cannot be permitted to go ahead with the construction.

This Court has considered the submissions.

Once, the plaintiff-appellant has admittedly raised construction, he cannot be permitted to assert that his other brother should not be allowed to raise construction. The share of defendant No.2 is not disputed.

Keeping in view the aforesaid facts, there is no ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

11.03.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No