

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

247

RSA-1433-2018 (O&M)

Date of decision: 06.11.2019

MANN SINGH

... Appellant

Versus

LABH SINGH AND ANR.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sham Lal Bhalla, Advocate for the appellant.
Mr. Vikram P. Arora, Advocate for the respondents.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby application for separate/specific possession by way of partition of 2/3 share by metes and bounds out of property comprised in khewat No.103/92, 93 Khatoni No.118 Khasra No.140/2 (1 kanal 1 marla) situated in village Sarana, Tehsil and District Fatehgarh Sahib as per jamabandi for the years 2009-10 was allowed by the trial Court vide judgment and decree dated 13.12.2016 to the effect that a decree for final partition is passed in favour of the applicants and they are entitle to separate/specific possession of the suit property by way of partition of 2/3 share by metes and bound, in terms of report of the Local Commission and site plans attached therewith.

The appeal preferred by unsuccessful defendant/appellant was dismissed by the District Judge, Fatehgarh Sahib and the appellate Court affirmed findings of the trial Court without variance.

On 19.03.2018, notice of motion was issued. A relevant extract from the said order, reads as follows:-

Learned counsel for the appellant submits that as per

report of the Local Commissioner on the basis of which final decree was passed, possession of 1.66 marlas shown in blue colour is to be given to the respondents. The appellant has constructed his house over this land and is ready to compensate the respondents by paying the market value of this plot. xx xx

Counsel for the respondents/plaintiffs would state that respondents are not ready to receive any amount by way of compensation in lieu of their entitlement to area measuring 1.66 marlas given to them.

The appellant was given time to settle the dispute but his efforts did not fructify in a settlement. The case was adjourned number of times on the request of counsel for the appellant in order to enable the appellant to settle the dispute.

Counsel for the respondents would inform that there is a mis-statement on the part of counsel for the appellant that appellant has constructed his house over the disputed area whereas the area in question is a passage inside the boundary wall. He would further inform that no part of the constructed building of house of the appellant except boundary wall would be affected by execution of the final decree passed in favour of the respondents. Counsel for the appellant is not in a position to justify his contention with regard to construction of any part of the house (main building) over the disputed area. In view of the above, nothing survives for consideration of this Court and accordingly the appeal stands disposed of.

06.11.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No