

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

-.-

**RSA 2010 of 2018 (O&M)**

Date of decision: 27.02.2019

*Mahi Pal through his LRs*

*.....Appellant*

***Versus***

*Vikram and others*

*.....Respondents*

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

-.-

Present: Mr. D K Bhatti, Advocate  
for the appellant

-.-

**Rekha Mittal, J. (Oral)**

The present appeal directs challenge against concurrent findings of fact recorded by the Courts whereby suit for declaration that partition order dated 02.09.1987 and further proceedings based upon that order are legal and valid and partition order dated 17.04.2002, mutation No. 2045 dated 23.12.2004 and possession proceedings by the Court of Assistant Collector Ist Grade, Ballabgarh are illegal, null and void, and not binding upon right, title and interest of the plaintiffs including appellant - Mahipal (since deceased) now represented by his Lrs, was dismissed by the trial Court vide judgment and decree dated 29.04.2014 that came to be affirmed in appeal preferred by Mahipal through his LRs.

The trial Court, in view of discussion in paras 20 onwards has rejected plea of the plaintiffs with regard to challenge against partition order dated 17.04.2002 and proceedings that followed including mutation and delivery of possession etc.

Counsel for the appellant has failed to point out if findings recorded by the Courts are either based upon materials which are not part of record or by ignoring material which has a bearing on decision of the factual and legal controversy involved in the litigation. There is no denial that in partition proceedings that culminated in order dated 17.04.2002, the plaintiffs were arrayed as respondents and they engaged a counsel to contest the proceedings but remained unsuccessful. A vague plea raised by the plaintiffs that their counsel did not pursue the proceedings in right earnestness is not at all sufficient to set aside partition order. Similarly, any such objection sought to be raised by the plaintiffs in respect of some construction being existing at the spot was amenable to be raised before the revenue authorities but on this premise, they cannot seek setting aside of partition order that does not suffer from jurisdictional or legal error. In this view of the matter, I do not find any illegality much less perversity in consistent findings recorded by the Courts when otherwise no question of law arises for adjudication after notice to the contesting party.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed *in limine*.

No order as to costs.

**(Rekha Mittal)**  
**Judge**

27.02.2019  
Mohan Bimbra

Whether speaking/reasoned: Yes/No  
Whether reportable : Yes/No