

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 3760 of 2018 (O&M)

Date of Decision: 04.04.2019

Rajinder Singh

...Appellant

VERSUS

Vinod Kumar and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vipin Mahajan, Advocate
for the appellant.

SURINDER GUPTA, J.

CM-9661-C-2018

Heard. There is delay of 22 days in filing the appeal.

In view of facts mentioned in the application, the same is allowed and delay of 22 days in filing the appeal is, hereby, condoned.

RSA-3760-2018

This is appeal by plaintiff-Rajinder Singh, whose suit seeking declaration that he is owner of land measuring 7 *kanals* 4 *marlas* out of total land measuring 21 *kanals* 13 *marlas* situated in village Sohawara Khurd, *tehsil* Pathankot and to restrain defendants from dispossessing him from suit land, raising any structure over it, change its nature, cutting, removing trees standing over it alongwith relief of proprietary possession of the land measuring 6 *marlas* out of *khewat* no. 169, *khatauni* no. 315, 316, 318 *khasra* no. 63/4/2 (8-14) min, 63/4/2 (1-8) min, 63/4/1 (1-1), situated in village Sohawara Khurd, *tehsil* Pathankot by way of specific performance of recital in sale deed dated 19.11.2001, was dismissed.

2. Learned trial Court observed that the parties to suit and others,

namely, Janak Raj, Pushpawati and Vinod Kumar are co-sharer of the suit land and no co-sharer can seek declaration of title over specific *khasra* number. Efficacious remedy available to co-sharer is to seek partition of the land. Another factor which weighed before the trial Court while dismissing the suit was that plaintiff, who tendered his affidavit in examination-in-chief, did not turn up for cross-examination. The suit was dismissed and the appeal filed by plaintiff was also dismissed by learned Ist Appellate Court.

3. I have heard learned counsel for the appellant, who could not make out as to how plaintiff claims declaration of specific portion of suit land. Admittedly, efficacious relief was available to plaintiff-appellant is to seek partition of his share in the suit land.

4. No worthwhile argument has been advanced by learned counsel for the appellant to challenge observations of Courts below making out a case for interference in this appeal. No substantial question of law requiring determination arises in this appeal, which has no merit.

Dismissed.

April 04, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No