

RSA No. 570 of 2018 (O&M)

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

**RSA No. 570 of 2018 (O&M)
Date of decision: 30.10.2019**

Amar Singh and others

... Appellants

Versus

Amrik Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Nakul Sharma, Advocate,
for the appellants.

ARUN PALLI, J. (Oral)

The suit filed by the appellant-plaintiffs was dismissed by the trial court, vide judgment and decree dated 16.02.2015. And, as even the appeal preferred against the said decree failed and was dismissed on 1.9.2017, they are before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

The plaintiffs prayed for a declaration that order dated 3.11.2003, passed by A.C. Ist Grade, Khamanon as regards Naksha Eree; order dated 11.3.2004, passed by the Collector; order dated 22.4.2005, passed by the Commissioner, and order dated 22.5.2008, passed by the Financial Commissioner in partition application under Section 111 of the Punjab Land Revenue Act, ('the Act' for short), with regard to the suit property, comprised in specific numbers depicted in the cause title of the plaint, were illegal, null and void.

In the written statement filed by defendants No.1 and 19 to 21, it was pleaded, *inter alia*, that present suit was not maintainable. Further, the

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suit property had fallen to the share of Kirpal Singh, Jaspal Singh and Raghbir Singh (defendants Nos. 19 to 21) in partition proceedings. Further, since the suit property was no longer joint between the parties and all the co-sharers were settled on their respective portions, pursuant to the partition, the suit was liable to be dismissed

Upon consideration of the matter in issue and the evidence on record, both the courts concurrently concluded that limited grievance of the plaintiffs was that A.C. Ist Grade, Khamanon, while passing the order dated 3.11.2003, did not adhere to the partition rules and even prepared Naksha Arra against the mode of partition. Further, even the taks were made ignoring the possession of the parties to the proceedings which too was contrary to the rules of partition. Whereas, on the contrary, the defendants duly proved that in the partition proceedings, a land measuring 2 kanals and 6 marlas, comprised in khasra Nos. 2//6/1(1-10) out of 2//16(4-4), 2//16/5(0-8), 25/1/1(0-8) out of 25/1(0-12), had fallen to their share and the suit property was no longer joint between the parties. Not just that, the partition proceedings had even become final right up to the Financial Commissioner. At any rate, in terms of the provisions of Section 158 of the Act, jurisdiction of the civil court was explicitly barred as regards certain matters which exclusively lay within the jurisdiction of the revenue officer(s). Further, as per Section 2 (xvii) and (xviii) of the Act, the issue as regards partition, allotment of land as a consequence of partition etc., are specified to be such matters in respect whereof jurisdiction of the civil court was specifically barred. Therefore, the plaintiffs were not entitled to any relief. Upon being pointedly asked, learned counsel for the appellants could not refer to anything on record to show if the findings recorded by both the courts were

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either contrary to the record or suffered from any material illegality.

No ground is made out to interfere with the concurrent findings recorded by both the courts. The appeal being devoid of merit, is accordingly dismissed.

(ARUN PALLI)
JUDGE

October 30, 2019
AK Sharma

Whether speaking / reasoned:	YES
Whether Reportable:	YES/NO