

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

RSA-3731-2012 (O&M)
Date of decision : 06.02.2020

Krishan Chand and others

...Appellants

Versus

Tibe Ram and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kartik Gupta, Advocate for the appellants.

Mr. Rohiteshwar Singh, Advocate for respondent No.5.

ANIL KSHETARPAL, J. (ORAL)

The plaintiffs-appellants are in the Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below while dismissing the suit filed for grant of decree of declaration to the effect that the Consolidation Officer had no right to consolidate the land measuring 11 kanals 8 marlas being part of the constructed area.

It may be noted here that as per the provisions of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter to be referred as “the Act of 1948”), the consolidation of the land situated in the village took place and the land in dispute came to be allotted to the defendant. The plaintiffs now claim that the consolidation of holdings of the disputed land is without jurisdiction.

Both the Courts have concurrently found that, in fact, on the

day, the consolidation took place, no construction existed on the land in dispute. Even, the Local Commissioner was appointed who reported that the constructed area claimed by the plaintiffs is not part of the suit land. Still further, both the Courts have held that the jurisdiction of the Civil Court is barred as per Section 44 of the Act of 1948. The plaintiffs also filed the appeal against the order of repartition passed under Section 21 of the Act of 1948 by the consolidation authority, which was also dismissed.

In view thereof, there is no ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Accordingly, the present Regular Second Appeal is dismissed.

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

06.02.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No