

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 208 of 2013 (O&M)

Date of Decision: 06.03.2020

Ramesh

... Appellant(s)

Versus

Smt. Annu Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. Amit Jain, Advocate
for the appellant.

Mr. Atul Yadav, Advocate
for the respondents.

Anil Kshetarpal, J.

The defendant/appellant has filed the present regular second appeal against the concurrent finding of fact arrived at by both the Courts below while decreeing the suit for permanent injunction with the following prayer:

“A decree for permanent injunction restraining the defendant from interfering in the peaceful possession of the plaintiff over the house in question i.e. the ancestral double storey residential house shown in red and green colour and marked by letters A.B.C.D. in the site plan, consisting two rooms, covered poly, open chowk and open lawn, situated within the abadi of village jasat, Tehsil Pataudi, District Gurgaon, which is bounded as under:-

East : House of defendant shown in yellow colour and then

pucca Kharanja Rasta.

West: Pcca Kharanja Rasta

North: House of Smt. Ombati wife of late Sh. Ram Narain.

South: House of defendant.

And further restraining the defendant from creating any hindrances in the construction work of wall, stair case and main gate at point X of the lawn of the plaintiff and also restraining the defendant from creating any hindrances in the reconstruction work of wall B G of the plaintiff in any manner”.

The plaintiff/respondent claimed that there is two storeyed house, which was originally owned by their predecessor and in a family settlement, the portion in question i.e. the suit property, fell to his share.

The defendant contested the suit and submitted that the suit property is a common area and the parties are co-owners. There is no family settlement between the parties.

The learned trial Court as well as the learned Appellate Court, after relying upon a report of the Local Commissioner as also the statements of Ram Kumar and Shiv Charan, who appeared for the defendant, decreed the suit.

Learned counsel for the appellant submitted that both the Courts below have wrongly arrived at a finding and Shiv Charan, who has appeared as DW.3 has not admitted the case of the plaintiff. This Court has seen the record. Shiv Charan has stated that whatever area was directed by their father, they had taken respective possession, although there is no partition.

Still further, it is admitted position on record that with respect to the

agricultural land, the family settlement has been arrived at and the family members had partitioned the agricultural land. In view thereof, both the Courts below have arrived at a conclusion on appreciation of the evidence. This Court does not find any such appreciation of evidence suffers from any material irregularity or perversity.

Keeping in view the aforesaid facts, there is no ground to interfere. Hence, dismissed.

The miscellaneous application(s), if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

March 06, 2020
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No