

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

RSA-6165-2017 (O&M)
Date of decision : 18.02.2020

Naresh Kumar Gaur

...Appellant

Versus

Amresh Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anil Kumar Sharma, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM-16081-C-2017

For the reasons stated in the application, which is duly supported by an affidavit, delay of 10 days in filing the present Regular Second Appeal is condoned.

Application is allowed.

Main case

The plaintiff-appellant has filed the present Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below while dismissing the suit filed by the plaintiff for declaration with consequential relief of permanent injunction.

The plaintiff, has in fact filed the present suit claiming preferential right to acquire the property in terms of Section 22 of the Hindu Succession Act, 1956, which in common language called pre-

emptory right.

Both the Courts, on appreciation of evidence, have found that the property is no longer joint between the parties after division of the same, as per judgment and decree dated 18.12.1981. Defendant No.1, brother of the plaintiff had sold the property in favour of defendant No.2 vide registered sale deed dated 12.05.2011. The Courts below have found that after division of the property, the plaintiff had no right to claim the preferential right.

Both the Courts below have also found that the present suit filed by the plaintiff is collusive between the plaintiff and defendant No.1 who in the written statement supported the case of the plaintiff after having sold the same in favour of defendant No.2 vide registered sale deed after receipt of sale consideration.

Learned counsel for the appellant, although made sincere attempt, however, failed to draw attention of the Court to any substantive misreading or non-reading of evidence or any error of law. Hence, 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.

18.02.2020

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No