

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-612-2018(O&M)
Date of decision: 23.01.2020

Rajbir

.....Appellant

Versus

Satpal and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.K.C.Rajput, Advocate for the appellant

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in Regular Second Appeal against concurrent finding of facts arrived at by the Courts below. On reading of the judgments passed by the Courts below, it is apparent that the plaintiff is misusing the process of law. Plaintiff filed a suit seeking decree for permanent injunction claiming that he is owner in possession of house in plot measuring 104 sq. yards, being used for storing wheat straw and defendants are trying to take forcible possession thereof. Defendants contested the suit and pleaded that the suit has been filed with mala fide intention. Plaintiff is not in possession of the property in dispute. The plot in question fell to the share of the defendants in partition proceedings titled as 'Pale Ram and others vs. Raghbir and others'. Final judgment and decree was passed in the partition proceedings by the Court on 12.5.2009. In execution petition No. 43/8/2009, the possession of the premises was delivered to the defendants. The plaintiff had filed

objection petition under Section 47 of the Code of Civil Procedure which was dismissed. On the basis of the aforesaid facts, both the Courts as noticed above have recorded finding of fact.

Learned counsel for the appellant submitted that final judgment and decree for partition dated 12.5.2009 is without jurisdiction.

On a Court question, he admitted that neither this issue has been framed nor any argument was raised in this regard before the Courts below. Still further, learned counsel for the appellant failed to show how the Civil Court had jurisdiction to pass a decree for partition.

Dismissed.

23.01.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No