

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

292

RSA No.5018 of 2019 (O&M)

Reserved on : 30.08.2022

Date of Decision: 06.09.2022

Tara Singh (since deceased) through LR

....Appellant

VERSUS

Karam Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Jagjit Singh, Advocate for the appellant.

ALKA SARIN, J.

The present appeal has been preferred by the plaintiff-appellant against the impugned judgments and decrees dated 27.05.2015 and 07.03.2019 passed by the Trial Court and the lower Appellate Court respectively.

The brief facts relevant to the present *lis* are that the plaintiff-appellant filed the present suit for declaration challenging the partition proceedings and orders passed therein as also the partition deed dated 06.06.2007 on the ground that the same was the result of fraud and misrepresentation played by the defendants-respondents. It was inter-alia averred in the plaint that the partition deed does not bear the signatures and thumb impression of the plaintiff-appellant. The suit was contested by the defendant-respondents on the ground that the Civil Court has no jurisdiction to try the present case. It was further the case that the partition proceedings had become final and the parties were in possession of their respective shares. It was further stated that after passing of the final order of partition dated 25.10.2001, *sanad taksim* was prepared and, thereafter, Rapat

Roznamcha No.225 dated 06.01.2010 was also prepared and the same was implemented on the spot and *khata* of the parties of the suit was fully separated. It was further averred that the entry regarding Rapat Roznamcha No.225 had since been incorporated in the latest jamabandi for the year 2007-08 and now all the parties were in possession of their respective shares.

The Trial Court dismissed the suit of the plaintiff-appellant holding that the plaintiff-appellant in order to prove his case has produced two witnesses - PW1 Balvir Kaur though stepped into the witness-box and had reiterated her entire version as mentioned in the plaint - however the said witness was not completely cross-examined and, hence, her testimony could not be looked into. The second witness who stepped into the witness-box was PW2 Sewa Kaur who stated in her cross-examination that she did not know exactly what the case was for which she had come to depose in Court. The Trial Court dismissed the suit of the plaintiff-appellant vide judgment and decree dated 27.05.2015. Aggrieved by the said judgment and decree, the plaintiff-appellant preferred an appeal which was also dismissed by the lower Appellate Court vide its judgment and decree dated 07.03.2019 holding that the partition proceedings were complete and the parties were in possession of their respective shares as per the partition proceedings and that the plaintiff-appellant had failed to show how the orders passed by the Revenue Court were illegal. It was further held that the partition proceedings stood finalized right upto the Court of Financial Commissioner and the plaintiff-appellant had failed to show how the said orders were illegal.

Learned counsel for the plaintiff-appellant has vehemently argued that the plaintiff-appellant had been able to prove his case by leading

cogent and reliable evidence and that the Courts below had erred in dismissing his suit. However, this Court is unable to accept the contentions raised by counsel for the plaintiff-appellant. The counsel for the plaintiff-appellant has not been able to demonstrate as to how and in what manner the partition proceedings and the orders passed therein or the partition deed were illegal and liable to be set aside. The evidence of both the witnesses produced by the plaintiff-appellant cannot be accepted inasmuch as the cross-examination of PW1 remained incomplete while PW2 stated in her cross-examination that she did not know exactly what the case was for which she had come to depose in Court. Counsel for the plaintiff-appellant has re-agitated the arguments which were raised before the Courts below and which arguments were not accepted after due consideration and deliberation.

In view of the above, I do not find any illegality or infirmity in the judgments and decrees passed by both the Courts below. No question of law, much less any substantial question of law, arises for determination in the present case. The present regular second appeal is accordingly dismissed. Pending applications, if any, also stand disposed off.

06.09.2022
jk

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO