

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

**RSA-1571-2022 (O&M)**

**Date of decision : 14.11.2022**

**Dalbir Singh**

**...Appellant**

**Vs.**

**Jagbir Singh @ Jaggu and another**

**...Respondents**

**CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Rahul Jaswal, Advocate for the appellant.

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**MANOJ BAJAJ, J.**

Appellant (plaintiff) has preferred regular second appeal to challenge the judgment and decree dated 12.04.2022 passed in Civil appeal No.258-2017 by first appellate Court, reversing the judgment and decree dated 15.07.2017 passed by Additional Civil Judge (Senior Division) Bahadurgarh, whereby his suit for permanent injunction was decreed.

Learned counsel has argued that the appellant/plaintiff filed a suit for permanent injunction against defendants, namely, Jagbir Singh @ Jaggu and Ram Bhateri on the ground that the suit property, which was initially owned by his father-Ram Sarup, devolved upon the appellant and other heirs after the death of Ram Sarup and defendants have no right, title or interest in the same. He submits that though the suit was contested by the defendants, but Jagbir Singh-defendant No.1 has supported the case of the plaintiff, therefore, the alleged sale deed dated 08.01.2014 allegedly executed by him in favour of Ram Bhateri relied upon by defendant No.2 to set up her title and interest in respect of land measuring 1 bigha 19 biswas cannot be attached any significance. Learned counsel has argued that the defendant No.2 is not in

possession of the suit property and considering the evidence, the trial Court vide judgment and decree dated 15.07.2017 decreed his suit for injunction, but the appellate Court has proceeded to reverse the said judgment and decree while dismissing the suit. In support of his case, learned counsel has relied upon the decision of this Court passed in “**Bhartu Vs. Ram Sarup**”, **1981 PLJ 204**. He prays that the impugned judgment and decree passed by the appellate Court warrants interference by this Court.

During the course of the hearing, it is not disputed by the learned counsel that the title deed dated 08.01.2014 (Ex.P-10) relating to the land measuring 1 bigha 19 biswas set up by defendant No.2-Ram Bhateri flows from the sale deed dated 17.12.2013 (Ex.P-8) executed in favour of defendant No.1 Jagbir Singh @ Jaggu by his brother Dharam Singh son of Ram Sarup, and on the basis of these said sale deeds respective mutations were also entered in favour of the purchasers.

After hearing the learned counsel and considering the pleadings, evidence on record, this Court finds that the defendants have set up their right, title and interest in the suit property on the basis of the sale deed dated 08.01.2014 and concededly, by virtue of this instrument, the vendor had transferred his share in the total land holding, therefore, the parties are co-sharer in joint possession. The argument by learned counsel that land sold to the defendants is not in their possession is misplaced as the documentary evidence of the defendants has gone un-impeached.

At this stage, learned counsel submits that since the defendant No.2 attempted to raise construction over the suit property, which is part of the joint holding, therefore, the plaintiff is justified in seeking injunction against

her, but, when in this regard, the learned counsel was asked to read the relevant pleading in the plaint, he fairly conceded that no such averment is contained in the plaint.

Thus, it is clear that the parties are co-sharers and admittedly the joint land holding is yet to be partitioned, and further in the absence of any evidence that the suit property is in exclusive possession of the plaintiff, this Court has no hesitation in holding that the appellate court has rightly overturned the judgment and decree passed by the trial Court. The ratio of decision in Bhartu's case (supra) relied upon by the learned counsel is not applicable in the present case. The impugned judgment and decree does not suffer from any perversity, therefore, the same does not warrant any interference.

No other argument was raised.

Resultantly, finding no merit in this appeal, much less the involvement of any substantial question of law, the same is dismissed.

(MANOJ BAJAJ)  
JUDGE

14.11.2022  
vanita

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|-----------------------------|-----|----|
| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |