

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

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**RSA-4958-2016(O&M)
Date of decision: 28.09.2022**

VED PARKASH

..Appellant

Versus

LALIT AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Mittal, Advocate
for the appellant.

Mr. J.S. Yadav, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

While assailing the concurrent findings of the fact arrived at by the Courts below, the plaintiff has filed the present appeal. The plaintiff's suit for seeking decree of possession by way of partition of the property has been dismissed by both the Courts below. The First Appellate Court has slightly modified the decree passed by the trial Court while observing that the property comprised in Khasra No.552/4, is joint and the contesting defendant is entitled to half share, whereas, the remaining half share of the property belongs to the plaintiff and the proforma defendants.

On the one hand, the plaintiff claims that the entire property is joint, whereas, on the other hand, it is the case of the contesting defendants that the property has already been partitioned in the year 1992 along with the agricultural land.

It has come on record that the father of the contesting defendants constructed a house on the plot comprised in Khasra No.422/2 and he started living there along with his family. It has also come on record that the construction of plot bearing Khasra No.422/2, was raised 20

years back and the plaintiff never objected to it. Both the Courts have also found that Sh. Sher Singh the plaintiff's father has not appeared in evidence to contest that there was a family partition between Sh. Ram Pat and him. It has also come on record that the respective parties have been transferring their respective shares without making any reference to the joint property. The contesting defendant (Lalit son of Sh. Ram Pat) has examined Sh. Rampal, whereas, Sh. Sher Singh has not appeared.

On the basis of appreciation of evidence, both the Courts have recorded the findings of fact. In absence of perversity or any material irregularity in appreciation of evidence or misreading of evidence, this Court while deciding Regular Second Appeal is not expected to interfere.

Hence, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

September 28th, 2022

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*