

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 3299 of 2016 (O&M)

Date of Decision: 21.07.2023

Siri Krishan and Others

... Appellant(s)

Versus

Hitesh Aggarwal and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Adarsh Jain, Advocate
for the appellant(s).

Mr. R.N.Lohan, Advocate
for the respondent No.4.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in ***Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157.***

2. The correctness of the concurrent findings of fact arrived at by both the Courts below are challenged by the plaintiffs in this appeal. The plaintiff filed a suit for grant of decree of permanent injunction restraining the defendants from occupying any specific portion of the suit land and from enclosing any barbed wire or to raise any sort of construction over any specific portion without getting the same partitioned by metes and bounds.

Both the Courts below dismissed the suit.

During the course of hearing, the learned counsel representing

Regular Second Appeal No. 3299 of 2016 (O&M)**2**

the respondent No.4 has informed the Court that during the pendency of the appeal, a final decree for partition has been passed by the competent Court of jurisdiction and accordingly a mutation in the revenue record has been entered dividing the property by metes and bounds.

4. The learned counsel representing the appellants is not in a position to dispute the factual position.

5. Keeping in view the aforesaid facts, the suit filed by the plaintiff is rendered infructuous.

6. With the observations made above, the present appeal is disposed of as having been rendered infructuous.

7. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

July 21, 2023**“DK”**

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No