

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

RSA No. 1604 of 2021 (O&M)

Date of decision: 22.03.2023

Sunil Kumar

..... Appellant.

Versus

Rajender Kumar and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Munish Kumar Garg, Advocate, for the appellant.

ANUPINDER SINGH GREWAL, J. (ORAL)

CM No. 6336-C of 2021

This application is for condonation of delay of 16 days in filing the appeal.

Heard. For the reasons stated in the application, the same is allowed and the delay of 16 days in filing the appeal is condoned.

RSA No. 1604 of 2021 (O&M)

The appellant has challenged the judgments and decrees of the Courts below whereby his suit for permanent injunction has been dismissed.

Learned counsel for the appellant/plaintiff submits that although the appellant/plaintiff is a co-sharer, but a preliminary decree of partition has been passed. The respondents/defendants have been selling specific plots and, therefore, grave prejudice is being caused to the appellant/plaintiff and it will be difficult for him to get his share in terms of the partition.

Heard.

The appellant/plaintiff had filed a suit for permanent injunction that he is a co-sharer in the land measuring 33 Kanal 6 Marla comprised in Khasra No.52/14 (8-18), 15/2 (7-0), 16/1 (7-0), 17 (8-0), 18 (2-8) situated within the revenue estate of village Budha Khera, Tehsil Uklana, District Hisar. The appellant/plaintiff is stated to be owner in possession of one half share of the land measuring 8 Kanal 12 Marla. The suit land is jointly owned by the appellant/plaintiff and respondents/defendants. The appellant/plaintiff is not in exclusive ownership and possession of the suit land. The appellant/plaintiff while being examined as PW-1 had himself admitted in his cross-examination that he had purchased the land out of the joint ownership and it had not been partitioned. The appellant/plaintiff has also pleaded in the plaint that the land is agricultural, but the revenue record indicates that it is 'gair mumkin' and the appellant/plaintiff himself while appearing in the witness box as PW-1 has stated that there is a colony and plots have been carved out. Insofar as the submission of learned counsel for the appellant/plaintiff that a preliminary decree has been passed on 10.02.2020 is concerned, the same has not been brought on record either in the suit or before the Appellate Court. The Appellate Court has dismissed the appeal on 06.09.2021 i.e. much after passing of the preliminary decree. It is well settled law that injunction cannot be granted against a co-sharer and, therefore, the appellant/plaintiff cannot seek injunction against other co-sharers. Therefore, I do not find any infirmity in the concurrent findings of facts recorded by the Courts below.

Consequently, the appeal stands dismissed.

Pending application(s), if any, shall also stand disposed of accordingly.

22.03.2023
Ramesh

(ANUPINDER SINGH GREWAL)
JUDGE

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