

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

(224)

RSA-3310-2017

Date of Decision : 05.05.2023

Sukhdev Singh**...Appellant****Versus****Basant Singh and others****...Respondents*****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI***

Present: Mr. Ashish Grover, Advocate for the appellant.

None for the respondents.

Harsimran Singh Sethi J. (Oral)

Learned counsel for the appellant argues that in the present case, the suit filed by the appellant-plaintiff was dismissed by the trial court vide judgment and decree dated 29.01.2016, which related to the partition of agricultural property, on the ground that the civil court does not have jurisdiction to entertain the said suit keeping in view Section 158(xviii) of the Punjab Land Revenue Act, 1887 but still, the findings were recorded on merits, which is beyond the jurisdiction of the civil court and the said ground was raised in the appeal, which appeal has been dismissed without discussing as to whether, once the trial court came to the conclusion that it did not had jurisdiction so recorded the findings on merits.

Learned counsel for the appellant argues that the findings recorded by the trial court that civil court did not have jurisdiction, is

accepted by the appellant so as to avail the remedy before the revenue authority but only apprehension is that the findings recorded by the civil court will come in his way while pursuing the remedy before the revenue authority, hence, the only clarification being sought is that the findings recorded by the trial court on merits, be not considered/appreciated by the revenue authority, *ipso facto* and the revenue authority be given liberty to decide the issue of partition of the land in question on the basis of the evidence, which will come on record without being influenced by the findings recorded by the civil court.

No one has come forward to contest the said prayer of the appellant. Findings recorded by the trial court that the suit filed by the appellant-plaintiff, was not maintainable keeping in view Section 158(xviii) of the Punjab Land Revenue Act, 1887 is upheld but the finding recorded by the trial court on merit of the dispute, will not bind the revenue authorities in any manner and any proceeding before the revenue authorities, will be decided on the basis of the evidence, which will produce before those authorities.

Present regular second appeal is allowed in above terms.
Decree sheet be prepared accordingly.

May 05, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No