

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

RSA-3479-2018

Date of Decision: August 07, 2023

SAHIL & ANR

.....Appellants

Versus

NAGAR MAL

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Himanshu Monga, Advocate for the appellants.

HARKESH MANUJA, J. (ORAL)

By way of present appeal, challenge has been laid to the judgments and decrees dated 09.04.2014 and 13.11.2017 passed by the Courts below whereby as suit for declaration challenging the order dated 22.07.2008 passed by Assistant Collector, First Grade, Mukerian, whereby partition was ordered to be effected between the appellants-plaintiffs and respondent-defendant stands dismissed.

2. Briefly stating, the appellants-plaintiffs claiming themselves to be joint owners in possession of the suit property having inherited the same from their father filed a suit for declaration challenging the order dated 22.07.2008 passed by Assistant Collector, First Grade, Mukerian, effecting partition between them and respondent-defendant, alleging fraud besides denial of opportunity of hearing to them.

3. On the other hand, in the written statement, respondent pleaded that the status of suit property, being joint, stood terminated with the passing of order dated 22.07.2008 upon its partition. It was

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further submitted that the suit was filed merely to harass respondent-defendant and that too after expiry of considerable period.

4. The trial Court vide judgment and decree dated 09.04.2014 dismissed the suit. Aggrieved thereof, the appellants-plaintiffs filed First Appeal, however, the same also came to be dismissed vide judgment and decree dated 13.11.2017.

5. Impugning the aforesaid judgments and decrees, learned counsel for the appellants-plaintiffs submits that the ex parte partition proceedings were carried out by the revenue authorities without affording opportunity to the appellants-plaintiffs being in violation of natural justice. No other argument has been addressed on behalf of appellants-plaintiffs.

6. I have heard learned counsel for the appellants-plaintiffs and gone through the paper-book. I do not find substance in the submissions made by learned counsel for the appellants.

7. In the present case, the order dated 22.07.2008 passed by Assistant Collector, First Grade, Mukerian whereby the land stood partitioned between the appellants-plaintiffs and respondent-defendant was assailed on account of denial of opportunity as well as fraud, however, no evidence at all was brought on record to substantiate the pleas raised in the plaint. Even the plaintiff himself did not appear in the trial Court for his own cross-examination to substantiate the averments made in the plaint. Moreover, no records from the revenue Court were either summoned or proved so as to establish the plea of violation of

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principles of natural justice or as regards violation of any statutory procedure regulating the revenue proceedings.

8. In the absence thereof, I am unable to find any illegality or perversity in the judgments passed by the Courts below. Accordingly, the present appeal is dismissed.

07.08.2023
tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>