

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

**RSA-1232-2019 (O&M)
Date of decision:09.01.2024**

Rajender

... Appellant

Vs.

Ram Kumar & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. R.N. Lohan Advocate for the appellant.

...

SUKHVINDER KAUR, J.

1. The instant regular second appeal has been filed against the concurrent finding recorded by both the Courts below vide which the suit of the plaintiff was dismissed.

2. Brief facts as per plaint are that the plaintiff and defendants No.1 and 2 are the joint owners of land measuring 131 kanal 19 marlas as per jamabandi for the year 2002-03 situated at Narnaund District Hisar as detailed in the head note of the plaint. It was averred that the suit land was yet to be partitioned by metes and bounds between the parties. Plaintiff is owner in possession 822/2639 shares as co-sharer in the suit land. Defendants No.1 and 2 filed partition application bearing No.18-T titled as Ram Kumar Vs. Satbir in the Court of AC 2nd Grade who passed order dated 06.08.2012 vide which Naksha 'Kha' was sanctioned, order dated 06.09.2012 vide which Naksha 'Ga' was sanctioned and order dated 24.09.2012 vide which memorandum of partition was prepared. It was alleged that the whole partition proceedings are illegal and are a result of fraud and are merely a

paper transaction and while initiating the partition proceedings principles of natural justice were not followed.

3. The trial Court vide judgment and decree dated 19.09.2014 dismissed the suit of the plaintiff and by first Appellate Court vide order dated 17.07.2018, appeal was also dismissed. Hence, the present regular second appeal.

4. Learned counsel for the appellant/plaintiff has contended that the partition proceedings were initiated in haste and in collusion with defendants No.1 and 2 and Naksha 'Kha' was prepared without even visiting the spot by the field staff and was prepared in utter violation of the sanctioned mode of partition. All the proceedings conducted were against the law laid down under the Punjab Land Revenue Act. He has further contended that the lower Courts have mis-construed and mis-interpreted the facts of the case and it has not been appreciated that the procedure as laid down in the Punjab Land Revenue Act was not followed while initiating the partition proceedings.

5. I have heard learned counsel for the appellant and gone through the records thoroughly.

6. There is a concurrent finding of both the Courts below that the partition proceedings were not conducted at the back of the plaintiff/appellant in collusion with the defendants No.1 and 2 as alleged by the plaintiff and rather plaintiff had attended the whole partition proceedings and even his counsel remained present at the time of passing of the impugned orders. Full opportunity was given to the plaintiff to file the reply and he was having full knowledge of the pendency of the proceedings and

willingly he did not file any reply. So, it does not lie in the mouth of the appellant to say that the principles of natural justice were violated. If the plaintiff was having any objection regarding order of Memorandum of partition dated 24.09.2012 then he should have filed an appeal before the revenue authorities instead of approaching the civil Court. So, both the Courts have rightly held that the partition proceedings were legal and were binding upon the plaintiff.

8. For the reasons recorded above, the present second appeal must fail as it does not raise any question of law much less substantial question of law.

9. Appeal stands dismissed.

(SUKHVINDER KAUR)
JUDGE

09.01.2024
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |