

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

111

2024:PHHC:013656

1. RSA-1171-1994
Date of decision: 01.02.2024

NATHU RAM ..Appellant
Versus
ISH PAL & ANR. ..Respondents

2. RSA-1172-1994

NATHU RAM ..Appellant
Versus
ISH PAL ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. P.S. Rana, Advocate
for the appellant.

Mr. Ashok Kumar Khubbar, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

1. With the consent of the learned counsel representing the parties, two connected regular second appeals shall stand disposed of by this common order.
2. In both the appeals, the appellant as well as respondent No.1 are common.
3. In order to comprehend the issue involved in these cases, the relevant facts, in brief, are required to be noticed.
4. In RSA-1171-1994, Smt. Shanti, Smt. Saroj and Smt. Usha Rani sold land measuring 2 biswas in favour of Sh. Ish Pal vide registered sale deed dated 21.08.1990 against Rs.4,000/-. In RSA-1172-1994, Sh. Mai Ram sold land measuring 1 and ½ (half) biswa to the same Sh. Ish Pal vide registered sale deed dated 17.08.1990 for a total sale consideration of Rs.4,000/-. The appellant (Sh. Nathu Ram) filed two separate suits for

possession by way of pre-emption claiming to be co-sharer, hence, having superior rights of pre-emption to pre-empt both the sale deeds. Both the Courts have concurrently found that Sh. Nathu Ram was no longer a co-sharer as per the deed of partition Ex.D-2 dated 26.02.1988, which was also reflected in the revenue record. Thus, both the Courts dismissed the suit.

5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

6. The learned counsel representing the appellant contends that in the jamabandi for the year 1989-90, the parties are still reflected as co-sharers. A perusal of the requisitioned trial Court record shows that Ex.D-3 is an instrument of partition. Sh. Nathu Ram and others filed suit against Smt. Shanti, Smt. Saroj, Smt. Usha Rani and Sh. Mai Ram for partition of the joint property, which was decreed on 21.01.1988 by the Court of Collector.

7. In view of the aforesaid document, the presumption of correctness attached to the entry in the jamabandi stands rebutted.

8. Keeping in view the aforesaid facts, no ground to interfere is made out.

9. Dismissed accordingly.

10. All the pending miscellaneous applications, if any, are also disposed of.

February 01st, 2024

Ay

(ANIL KSHETARPAL)
JUDGE

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