



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1532 of 2002 (O&M)
Date of Order:22.11.2024

Ramesh Lal
Versus
.Appellant

Tarsem Lal and others
..Respondents

COCN No.1386 of 2002(O&M)

Ramesh Lal
Versus
.Petitioner

Tarsem Lal
..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikas Singh, Advocate,
for the appellant/petitioner

Mr. H.S.Bedi, Advocate
for respondent no.1.

ANIL KSHETARPAL, JUDGE (Oral)

1. The plaintiff is in Regular Second Appeal against the findings of fact arrived at by the first appellate court. He filed suit for grant of decree of permanent injunction restraining the defendants from raising construction on the ground that they are co-sharers and in absence of partition, defendants should not be permitted to construct.
2. The trial court decreed the suit, however, the first appellate court found that the defendants is in possession of the plot purchased by him vide sale deed Ex.D1, hence, the defendants cannot be restrained from raising construction.



3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

4. The learned counsel representing the appellant contends that the defendants should not be permitted to construct till the property is partitioned. He submits that the first appellate court erred in reversing the judgment of the trial court.

5. This court has considered the submissions of the learned counsel representing the appellant.

6. It is evident that the defendants are in possession of specific parcel of land measuring 2 marlas. They have purchased the property from the co-owner through a registered sale deed. They were put in possession of the property. They cannot be denied right to use the property only because the property continues to be joint. It has been found that the 2 marlas plot abuts the street and defendant no.1 has already constructed a room. It is the case of the defendants that the property has already been partitioned amongst the co-sharers. During the pendency of the suit, a Local Commissioner was also appointed and as per his report it was found that the construction have come up in major part of the property.

7. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

8. Dismissed.

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

COCPI386 of 2002

The plaintiff/petitioner complains willful violation of the

interim order passed by this Court.

The main appeal has already been dismissed, hence, no further order in COCP is required to be passed.

Disposed of accordingly.

(ANIL KSHETARPAL)
JUDGE

November 22, 2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No