

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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2024:PHHC:026238

RSA-681-2021 (O&M)
Date of decision: 26.02.2024

ROHTASH ..Appellant

Versus

ROHTASH AND ORS ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Mittal, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

1. In this regular second appeal, the correctness of the concurrent findings of fact arrived at by the Courts below is assailed by the plaintiff. His suit for the grant of decree of permanent injunction that he is in exclusive possession of the land comprised in Rectangle No.13, Khasra No.11, 12 and 19, has been dismissed by both the Courts below. It may be noted here that the appellant is stated to have filed an application for partitioning the property, which was decided by the Assistant Collector, Ist Grade, however, the matter is pending before the Financial Commissioner, Haryana. Thus, the partition of the joint property is not final. Both the Courts have concluded that the parties are co-sharers and an application for the grant of injunction is not maintainable.
2. The learned counsel representing the appellant submits that as per the *sanad taksim* issued by the Assistant Collector, Ist Grade, the aforesaid suit property has come to the share of the appellant.
3. This Court has considered the submissions of the learned counsel representing the appellant.
4. The partition proceedings are yet to be finalized.

5. In these circumstances, the appellant, if so advised, may file an appropriate application before the Financial Commissioner, where the matter is pending.
6. With these observations, the appeal is dismissed.
7. All the pending miscellaneous applications, if any, are also disposed of.

February 26th, 2024
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(ANIL KSHETARPAL)
JUDGE

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