



Date of decision : 08.07.2024

...Appellants

Vs.

...Respondents

Present: Ms. Pridhi Sandhu, Advocate and
Mr. Manpreet Kanda, Advocate
for the appellants.

ANIL KSHETARPAL, J. (Oral)

1. In this regular second appeal, the plaintiffs assail the correctness of concurrent findings of fact arrived at by the Courts below while dismissing their suit. In substance, the plaintiffs claimed that the defendant has no right to construct the house unless and until the suit property is partitioned. On the other hand, the defendant claims to be a *bona fide* purchaser for valuable consideration. Smt. Balwinder Kaur sold 02 kanals 10 marlas land to Sh. Kirpal Singh vide registered sale deed dated 14.04.2005, which in turn was sold to the defendant on 25.09.2013. The defendant wants to construct her residential house. Both the Courts have found that the plaintiffs do not have *prime facie* case and the balance of convenience is not in their favour. The Courts have also found that the defendant is the owner of the property by virtue of a sale deed. She has purchased the same for constructing her residential



house.

2. Heard the learned counsel representing the appellant at length and with his able assistance perused the paper-book.
3. Learned counsel representing the appellant submits that unless and until the partition of the property takes place, the co-sharer has no right to raise construction. He relies upon the judgment passed in ‘Dharam Singh vs. Tek Chand and others’, 1992(1) SimLJ 293. This Court has carefully read the judgment. In the aforesaid judgment, the revision petition was filed against an order granting ad interim injunction (temporary injunction). Moreover, the aforesaid case was decided in the peculiar facts of the case.
4. This Court has considered the submissions made by the learned counsel representing the appellant.
5. The aforesaid contention of the learned counsel representing the appellant is not correct in the facts and circumstances of the present case. It is evident that the property in dispute is no longer agricultural land. A small plot has been purchased by the defendant. She wants to construct her house.
6. In these circumstances, this Court does not find it appropriate to interfere with the concurrent findings of fact.
7. Hence, no ground to interfere is made out.
8. The appeal stands dismissed.

08.07.2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No