

125 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-3485-2018(O&M)
Date of decision :10.04.2024

Sabo the Fuels Private Limited
Talwandi Sabo and another ...Appellants

Vs.

Jatinder Singh and others ...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Binderjit Singh, Advocate
for the appellants.

Mr. Surinder Singh, Advocate
for respondents No. 1 to 3.

ANIL KSHETARPAL, J. (Oral)

1. In this regular second appeal, the defendants' assail the correctness of concurrent findings of the fact arrived at by the Courts below while passing preliminary decree for partition of joint property measuring 22 kanals 0 marla.
2. Plaintiffs filed a suit for possession by way of partition claiming that they are co-sharers alongwith the defendants. The defendants No.1, 11, 12, 22 to 24 contested the suit. The defendant No.1 claimed that he has purchased specific portion of the suit property through various registered sale deeds and therefore, he is not the co-owner.
3. Upon appreciation of evidence, both the Courts below have come to the conclusion that the sale deed executed in favour of the

defendant No.1 result in purchasing a share in the undivided land. It has been found that the defendant No.1 purchased the property from a co-owner. Hence, the sale of land by referring to specific khasra number would result in purchasing share in the joint land. It has also been found that out of joint property 22 kanals is a non-agricultural land, whereas, 55 kanals 05 marlas is an agricultural land.

4. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

5. Learned counsel representing the appellants submits that some part of the suit property is being used for agriculture purpose, therefore, only the revenue authorities under the Punjab Land Revenue Act, 1887 have the jurisdiction to partition the property. He further submits that the plaintiffs have also filed parallel proceedings before the Revenue Authorities and hence, they are estopped for continuing simultaneous proceedings. He further contends that the plaintiffs have also purchased the land comprised in specific dimensions.

6. *Per contra*, learned counsel representing the respondents submits that with respect to non-agricultural land, the authorities under the Punjab Land Revenue Act, 1887 do not have jurisdiction. Hence, the plaintiffs were compelled to file two separate proceedings, one before the Civil Court, whereas, second before the Revenue Authorities. He further submits that the vendors of the plaintiffs as well as the defendants were co-sharers and co-owners and the plaintiffs have never objected to the

jurisdiction of the Civil Court before the Courts below.

7. This Court has considered the submissions of learned counsel representing the parties. While analyzing these contentions, a Five Judge Bench of this Court in 'Ram Chander vs. Bhim Singh and others', 2008 (3) PLR 747 has explained that purchase of specified portion of the land by referring to a particular khasra number in an un-partitioned land would result in purchase of a share in the undivided land and the vendee becomes co-sharer in the entire joint khewat.

8. In these circumstances, the appellants cannot claim that they are exclusive owner of the property. With regard to first submission of the learned counsel representing the appellants, it will be noted that the appellants have not made any submissions before the Courts below of this aspect of the matter. In any case, the appellants have failed to show any prejudice. If a question of title is involved, the Revenue Authorities normally refer the parties to the Civil Court for decision. Thus, there is no absolute bar on the jurisdiction of the Civil Court. Moreover, it is not the case of the appellants that their share has been incorrectly determined.

9. With reference to the last argument, it will be noted that in the area of Punjab, Haryana and Union Territory, Chandigarh, the jurisdiction to partition the joint property is conferred in the Revenue Authorities as well as the Civil Court. With regard to agricultural land, the jurisdiction is pre-dominately with the Revenue Authorities, whereas, with regard to the non-agricultural land, the jurisdiction exclusively vests in the Civil Court.

10. Hence, there is no estoppel against the respondents (plaintiffs). Consequently, finding no merit in this case, the appeal is dismissed.

10.04.2024

(ANIL KSHETARPAL)
JUDGE

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	Whether Reportable :	Yes	No