



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA-1893-2024 (O&M)

Date of decision: 12.05.2025

Shish Ram

...Appellant(s)

Vs.

Model Economic Township Limited and another ...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Jayant Yadav, Advocate for the appellant.

NIDHI GUPTA, J.

The present second appeal has been filed by the plaintiff against the concurrent judgments and decrees of the learned Courts below, whereby the suit filed by the plaintiff seeking declaration that the 'Sanad Takshim' dated 26.06.2015 alongwith all the miscellaneous orders dated 19.07.2013, 25.10.2013, 20.03.2015, 26.06.2015 passed by the Assistant Collector First Grade-cum-Tehsildar and mutation No. 4389 dated 02.08.2015 entered and got sanctioned on the basis of the instrument of Partition dated 26.06.2015 is illegal, null and void, has been dismissed by both the Courts below.

2. Brief facts of the case are that partition proceedings were initiated by defendants/respondents in respect of the suit land as described in the plaint. It is the case of the plaintiff that in the said partition proceedings, he was not served in accordance with law.



Therefore, the impugned ex-parte Sanad Takshim dated 26.06.2015 in favour of the defendants, is illegal, null and void.

3. Learned counsel for the appellant/plaintiff inter alia submits that it has been stated by the defendants that the appellant was served in accordance with law as munadi was carried out in the locality by beating of drums. Learned counsel contends that the said mode of service is obsolete and can no longer be resorted to as per Section 22 of the Punjab Land Revenue Act, 1887. It is submitted that it was incumbent upon the respondents to paste a copy of the summons at the usual or last known place of residence or outside the house of the appellant for it to be a valid service. As appellant has not been served in accordance with law, therefore, all partition proceedings were carried out at the back of the appellant and, therefore, the said partition proceedings cannot be sustained being fraudulent. It is submitted that therefore, suit of the plaintiff has been wrongly dismissed by both the learned Courts below. It is accordingly prayed that the present appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

4. No other argument is raised on behalf of the plaintiff.

5. I have heard learned counsel for the appellant/plaintiff and perused the case file in great detail.

6. I find no merit whatsoever in the submissions made on behalf of the plaintiff. Brief facts are that the partition proceedings were initiated by the defendants against the present plaintiff before the



Revenue Court. It is the case of the plaintiff that he is co-owner in possession with defendant No.2 in the suit land as mentioned in the plaint. The plaintiff has challenged the partition proceedings conducted by Revenue Officer on 26.06.2015 on the ground of 'fraud' as, said proceedings were conducted ex parte in the absence of the plaintiff Shish Ram. However, it is established on record that plaintiff was proceeded ex parte by the Revenue Court as, despite service through munadi, he had failed to put in appearance. Service was affected upon Shish Ram even through registered AD Ex.P15. This is so recorded in zimni order dated 19.07.2013 (Ex.P8) passed by the Assistant Collector 1st Grade-cum-Tehsildar, that the plaintiff did not put in appearance despite service through munadi. The fact that service has been effected upon the plaintiff is also proved from the evidence of DW1, who has deposed in examination-in-chief that the plaintiff had deliberately not put in appearance in the partition case despite the fact that he had been served through summons as well as through beating of drum. During cross-examination, DW1 had stated that even the site plan 'B' regarding partition was prepared with the consent of the appellant. Yet, Shish Ram chose not to appear even after service was affected upon him. Thus, argument of the appellant that service was not affected in accordance with law, is liable to be outrightly rejected.

7. Further, in any event, present civil suit is not maintainable as, if the plaintiff is aggrieved of the order passed by Revenue Authorities, then the remedy available to the appellant as per law is to file an appeal



before the Superior Revenue Court. Admittedly, no such appeal was filed by the appellant.

8. It has been contended by learned counsel the appellant that the Civil Court has jurisdiction if the fraud is proved. In support, learned counsel has relied upon judgment passed by Hon'ble Supreme Court in ***"Rabindra Singh vs. Financial Commissioner, Cooperation, Punjab and others"***, ***Law Finder Doc Id # 145094***. However, the appellant can derive no benefit from the said judgment as in the said case, the defendant therein had duly filed appeal before the Collector; and had therefore taken the remedy available to him as per law. However, in the present case, the appellant has not taken appropriate remedy as per law against the order dated 26.06.2015 passed by Assistant Collector First Grade-cum-Tehsildar, and the plaintiff had directly filed the present Civil Suit.

9. Learned counsel for the appellant is unable to dispute or controvert the above said facts and findings on record.

10. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees of the learned Courts below. The present regular second appeal is hereby **dismissed**.

11. Pending applications, if any, stand disposed of.

12.05.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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