



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-4625-2018 (O&M)
Date of Decision :07.07.2025

TILAK RAJ

. . . . APPELLANT

Vs.

CHAMAN LAL

. . . . RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Kartik Gupta, Advocate, for the appellant.

DEEPAK GUPTA, J. (ORAL)

Defendant of the suit is against concurrent findings of the Courts below, inasmuch as suit for possession by way of partition of the property in dispute filed by plaintiff-Chaman Lal (*respondent herein*) was decreed by the trial Court on 28.08.2014 and the appeal filed by the defendant-*appellant herein* was dismissed by the First Appellate Court on 19.04.2017, affirming the findings of the trial Court.

2. Assailing the concurrent findings, it is contended that the Courts below have failed to appreciate the evidence on record in right perspective.

3. Heard. The sole plaintiff and sole defendant are real brothers. Dispute is regarding a shop, which was jointly purchased by both the parties from the previous owner. Plaintiff sought possession of his 1/2 share by way of partition. Defendant-appellant claimed that in 1992, plaintiff had sold his portion as per the mutual understanding after receiving an amount of ₹15000/- and as such, he (*defendant*) had become exclusive owner of the shop in dispute, which he was running for the last 20 years without any interference.

4. The Courts below found that defendant had failed to prove his stand regarding any such sale. Except for the oral evidence of the defendant,

there was nothing to show any sale of his share by the plaintiff to the defendant.

5. Faced with this situation, learned counsel for the appellant submits that before the First Appellate Court, an application under Order VI Rule 17 CPC (*Annexure A4*) was moved so as to contend that there was a joint house of the parties, which was not included in the suit property and therefore, suit was not maintainable due to partial partition. It is contended that appeal has been disposed of by the First Appellate Court without considering the application.

6. This Court does not find merit in the aforesaid contention, as when specifically asked, learned counsel conceded that there was no document to show the jointness of any house between the parties as mentioned in the application.

7. Apparently, the application appeared to have been moved just to delay the proceedings.

8. In view of all the aforesaid facts and circumstances, this Court does not find any ground to interfere in the concurrent findings of facts recorded by the Courts below, which are based upon proper appreciation of evidence.

Dismissed.

07.07.2025

Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned	: Yes
Whether reportable	: No