



RSA-1127-2020 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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RSA-1127-2020 (O & M)

Date of decision:20.02.2025

JAGJIT SINGH

...APPELLANT

VS.

MOHNA SINGH AND ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. P.K.S. Phoolka, Advocate
for the appellant.

SUVIR SEHGAL, J.

1. Appellant/plaintiff is in second appeal before this Court challenging the concurrent finding recorded by the two Courts below.

2. Plead case of the plaintiff is that he is the co-owner in possession of the suit land. He filed an application for partition of the *gair mumkin abadi* land as some land was recorded as agricultural (*Nehri & Chahi*) land. Assistant Collector, Ist Grade, sought a report and Kanungo reported that as the land is *gair mumkin abadi*, it cannot be partitioned. Claiming that there is a dispute regarding the joint ownership of the property and that he has not been able to enjoy its full benefits, plaintiff filed a suit

for possession by way of partition of the land against 296 co-owners.



3. Some of the defendants were proceeded against *ex parte*. Upon being served, separate written statements were filed by some defendants, contesting the suit by raising various preliminary objections, including an objection to the effect that the suit is barred under Order 2 Rule 2 CPC and principle of *res judicata*. On merits, it was averred that the plaintiff has no right or share in the suit property and the application for partition has been rightly rejected by the Assistant Collector. Plaintiff filed a replication controverting the averments of the written statement. Issues were framed by the trial Court on the basis of the pleadings of the parties and after contest, trial Court by judgment and decree dated 12.09.2018, dismissed the suit. Plaintiff remained unsuccessful in the first appeal, which was dismissed by the learned Additional District Judge, Bathinda, by judgment dated 05.10.2019, resulting in the institution of the instant second appeal.

4. Referring to the testimony of the appellant/plaintiff, who stepped into the witness-box as PW1, counsel for the appellant contends that the suit land is non-agricultural and the courts have erred in dismissing the suit for partition. He has also challenged the finding of the Courts, whereby a finding has been returned that the suit is barred by *res judicata*.

5. I have heard counsel for the appellant and considered his submission.

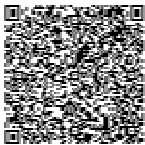
6. In his cross-examination, plaintiff (PW1) admitted that 16 to 17 suits had been filed regarding the suit land, however, he did not mention them in his plaint. He admitted that some of the suits had been instituted by him. An examination of the pleadings, orders and judgments, Ex.D-1 to



dispute. In particular, reference deserves to be made to judgment dated 03.12.2014, Ex.D20 and judgment dated 25.03.2015, Ex.D29, passed by the trial court in suits filed by the plaintiff for possession by way of partition, which pertain to a portion of the suit land.

7. Plaintiff has failed to disclose the previous litigation. A heavy onus lies on a person, who approaches the Court to reveal all the facts and circumstances, which have any connection with the matter in dispute. It is the bounden duty of a litigant to place before the Court the entire gamut of facts leading to the filing of the litigation so as to enable the Court to assess them and arrive at a conclusion. However, whenever a litigant tries to hoodwink the Court, conceals and suppresses material facts, he/she is not entitled to any relief and his plaint/petition deserves to be dismissed with costs. In **Regional Manager, Central Bank of India Vs. Madhulika Guruprasad Dahir and others** (2008) 13 SCC 170, Supreme Court has observed that an act of deliberate deception with a design to secure something, which is otherwise not due, tantamounts to fraud. In **S.P. Chengalvaraya Naidu (dead) by LRs Vs. Jagannath (dead) by LRs and others** (1994) 1 SCC 1, Supreme Court's opening remarks are "Fraud avoids all judicial acts, ecclesiastical or temporal".

8. In the earlier suits filed by the plaintiff, he had sought possession of the property and after contest, both the suits were dismissed by the Trial Court by judgments Ex.D20 and D29. The findings recorded by the Trial Court in the previous suits operates as a *res judicata* and bar under Order 2 Rule 2 is applicable. Plaintiff cannot re-agitate the issues which



Court is, therefore, of the view that the findings recorded by the courts below do not call for any interference and are upheld.

- 9. Appeal being devoid of merit and is dismissed.
- 10. As the main case has been decided, pending applications shall stand disposed off.

20.02.2025
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No