

In the High Court of Punjab and Haryana at Chandigarh

RSA No.1070 of 2012(O&M)

Date of Order: October 09, 2015

Harbans Singh

..... Appellant

Versus

Savitari Devi and ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

**Present:- Mr. Vivek Goyal, Advocate,
counsel for the appellant.**

Surinder Gupta, J.

Heard.

This appeal is against the judgment passed by the courts below whereby the final decree in terms of the judgment of Civil Suit No.539 of 30.4.1996 was passed.

As it transpires, from the perusal of the judgment of the courts below that the width of the suit property was 28'X 56' and as per the report of the Local Commissioner it was divided into two portions by raising a wall in the middle. It is evident from the judgment of the first Appellate Court that both the parties have agreed with the report of the Local Commissioner and no one had raised objection against that report. It will be relevant to reproduce the observations of the first Appellate Court concerning mode of partition as incorporated in para 19, which reads as follow:-

“The width of the disputed house is 28 feet. There are two

rooms on the front side. Thereafter, there is a verandah. On the western side of the house there is a bath room, stair case, kitchen and then there is a covered verandah parallel to the room and on the northern side also there are two rooms 13'-3" each. On the southern side of property possession is of Warring Fertilizers. The learned trial court has drawn a parallel line from point F to E by dividing the house into two portions. It is not the case of the appellant that he was given less area than the respondents. It is also not his case that the property of more value is given to the respondent i.e. LRs of Hakam Singh. No other mode of partition is suggested by the appellants. Local Commissioner in his report observed that "two rooms measuring 11'-6" X 13'-3" with a verandah were built at the first floor. The verandah on the first floor and verandah on the ground floor have three pillars each and are of straight columns. The central pillars of both the verandah were built exactly in the centre of the property i.e. 13' -5" on one side and 13'-6" on the other side in a straight column. The common walls of both the rooms on the first floor as well as rooms on the ground floor are also in line with central pillars of verandah i.e. in the centre of property. This wall from the ground floor to the first floor roof is of single wall. Northern portion of the property seems to have been built about 25 years ago. One easily reach the conclusion that the rooms and verandah on the ground floor as well as room and verandah on the first floor are built with keeping in view the idea of partition of property in two part same day." Thus, it seems that the appeal preferred by the appellant simply to deny the fruits of preliminary decree for partition rendered way back on 12-9-1997. The learned trial court equally partitioned the property and the property on the eastern side marked as AEDF was given to the plaintiff and the remaining portion BCFE situated on the eastern side was given to the defendants/respondents."

The share of the parties in the suit property bearing old

Municipal No.W-V/203 and New No.W-V/359 situated within municipal limits of Jaitu are not disputed. It is also not disputed that while suggesting the mode of partition and passing the final decree, the court equally divided the share. The appellant-defendant has neither filed any objection to the report of Local Commissioner nor had come up with any proposal or suggestion about the mode of partition in compliance of the preliminary decree. It was not suggested as to what will be better mode of partition than the one suggested by local commissioner and approved by Court below.

No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

October 09, 2015

Sachin M/jv

**(SURINDER GUPTA)
JUDGE**