

**IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH**

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**R.S.A No. 3199 of 2012 (O&M)
Decided on : January 20, 2015**

Baljinder Singh

... Appellant.

Versus

Mangal Singh @ Jaswinder Singh & Ors.

... Respondents.

CORAM : HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Naveen Sharma, Advocate, for the appellant.

Mahavir S. Chauhan, J. (Oral)

Heard.

Baljinder Singh son of the deceased defendant-Lehmber Singh, impugns by way of this regular second appeal, correctness of judgment/decreed dated 13.03.2012, whereby learned Additional District Judge, Shaheed Bhagat Singh Nagar ('first appellate Court' – for short) has upheld judgment/decreed dated 03.10.2011, whereby learned Civil Judge (Senior Division), Shaheed Bhagat Singh Nagar ('trial Court' – for short) has decreed Civil Suit No.04 of 2005 brought by the respondents (plaintiffs before the learned trial Court) for partition of the suit property as described in the heading of the plaint.

Respondents' case before the learned trial Court was based on the averments that the parties to the lis are co-sharers in the suit property;

share of the plaintiffs-respondents being half, they having inherited it from their father Karam Singh but they are not being allowed to make use of it by the defendant- Lehmbur Singh nor is he allowing them to sell their share.

Defendant contested respondents' claim on the averments that the respondents do not have any concern with the suit property which is owned by him (the defendant).

After issues were framed, parties adduced evidence and were heard by the learned trial Court. Having found respondents' claim to be meritorious, learned trial Court decreed it vide judgment/decreed dated 03.10.2011 which has been affirmed by the learned first appellate Court vide judgment/decreed dated 13.03.2012.

It is argued by the learned counsel for the appellant that under an oral partition the suit property had fallen to appellant's share and he has constructed a house thereon which ought to have been taken into consideration by the Courts below as mandated by Rule 18 of Order XX of the Code of Civil Procedure, 1908 ('C.P.C' - for short)

Nothing more has been urged.

As rightly held by the Courts below oral family partition was neither pleaded by the defendant nor has it been proved on record as per law of evidence. Learned counsel for the appellant has not been able to show any evidence in proof of his contention that the suit property has fallen to the share of the defendant and he has raised construction thereon. He has not been able to controvert concurrent findings recorded by the Courts below to the effect that the respondents are owners of half share in the suit

property which falls within Lal Lakir and has not been partitioned so far.

Further, the appeal is not shown to involve any question of law,
much less a substantial one.

Dismissed.

January 20, 2015
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[Mahavir S. Chauhan]
Judge