

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No. 1910 of 2013

Date of decision: 08.09.2015

Surjit Singh and others

...APPELLANTS

VS.

Kanta Rani and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sherry K. Singla, Advocate,
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgments and decree passed by the Courts below by which the suit preferred by the respondents-plaintiffs for partition by way of separating the share in the properties mentioned in the head note of the suit stands decreed. According to the said decree, the respondents-plaintiffs have been held entitled to half share in the properties.

It is the contention of the counsel for the appellants that qua properties mentioned in the head note A, B, C and D, the respondents-plaintiffs have been held to be half share holders of the joint property on the basis of the jamabandis but qua property mentioned at head note 'E', they cannot be held entitled to half share as there is no documentary evidence in support thereof. His further contention is that in the plaint, the respondents-plaintiffs had, in para 2-A, specifically averred that the said property was

inherited from their ancestors and they are owners of half share of the said property. Since it is an inherited property and there are four claimants, who could have inherited the said property, they can only be held entitled to one fourth share of the property. He contends that even if the appellants-defendants have not specifically denied this aspect and have admitted the possession over the said property with the respondents-plaintiffs, that would not entitle them to claim half share in the said property.

This contention of the counsel for the appellants cannot be accepted in the light of the pleadings, which have been referred to by the Courts below, wherein it has been stated that the appellants-defendants having not denied the claim of the respondents-plaintiffs, as asserted in their plaint specifically, the same would be deemed to have been admitted and the claim has, therefore, rightly been decreed qua property mentioned at head note 'E' holding the respondents-plaintiffs entitled to half share in the said property.

In view of the above, finding no merit in the present appeal, the same stands dismissed as there are concurrent findings recorded by the Courts below and there is no substantial question of law in the present appeal, which requires consideration of this Court.

September 08, 2015
pj

(AUGUSTINE GEORGE MASIH)
JUDGE