

RSA No.3494 of 2013 (O&M)

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

RSA No.3494 of 2013 (O&M)

Date of Decision: October 12, 2015

Sukhdev Singh

...Appellant

Versus

Bir Singh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Balbir Singh Jaswal, Advocate
for the appellant.

AUGUSTINE GEORGE MASI, J. (Oral):

CM No.9429-C of 2013

Prayer in this application is for exemption from filing certified copy of judgment and decree dated 16.03.2012 passed by Civil Judge (Junior Division), Ajnala.

For the reason mentioned in the application, which is duly supported by an affidavit of the applicant-appellant, the same is allowed. Exemption is granted from filing certified copy of judgment and decree dated 16.03.2012 passed by Civil Judge (Junior Division), Ajnala, subject to all just exceptions.

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Challenge in this appeal is to the judgment and decree passed by the Additional District Judge, Amritsar, dated 23.02.2013, vide which respondent-plaintiffs have been declared the owners in

possession of the property in dispute to the extent of 5/6th share and respondent No.5-defendant no.1-Jit Singh to the extent of 1/5th share being co-sharer with liberty to seek partition to separate their shares by metes and bounds.

It is the contention of the counsel for the appellant that the respondent-plaintiffs in the suit have not sought possession and mere declaration suit would not be maintainable especially when the respondent-plaintiffs have admitted that they are not in possession of the specific portion of the land in dispute.

This contention of the learned counsel for the appellant-defendant cannot be accepted as it is not in dispute that the appellant as also the respondent-plaintiffs are the co-sharers and since they are the co-sharers, each co-sharer is in possession of each portion of the property until the same is partitioned. The findings, thus, recorded by the Lower Appellate Court is in accordance with the pleadings and evidence led by the parties which has been correctly considered and appreciated, do not call for any interference.

In view of the above, finding no merit in the present appeal especially when there is no substantial question of law which arises for consideration of this Court, the same stands dismissed.

(**AUGUSTINE GEORGE MASIH**)
JUDGE

October 12, 2015