

In the High Court of Punjab and Haryana at Chandigarh

.....

R.S.A. No.3029 of 2015 (O&M)

.....

Date of decision:1.7.2015

Parmodh Verma and others

.....Appellants

v.

Lajpat Rai

.....Respondent

.....

**Coram : Hon'ble Mr. Justice Inderjit Singh**

.....

Present: Mr. Sourabh Goel, Advocate for the appellants.

.....

**Inderjit Singh, J.**

This regular second appeal has been filed by Parmodh Verma, Vinod Kumar and Rita Rani-appellants/defendants against Lajpat Rai-respondent/plaintiff aggrieved against the impugned judgment and decree dated 31.1.2013 passed by the learned Civil Judge (Junior Division), Ludhiana and the impugned judgment and decree dated 17.3.2015 passed by the learned Additional District Judge, Ludhiana, in the appeal.

The brief facts of the case are that vide common judgment and decree dated 13.1.2013, two civil suits, one filed by Lajpat Rai against Parmodh Verma, Vinod Kumar, Rita Rai and Amar Devi and the other filed by Parmodh Verma, Vinod Kumar, Rita Rani and Amar Devi against Lajpat Rai and Sarup Chand have been decided together.

This regular second appeal has been filed by Parmodh Vema, Vinod Kumar and Rita Rani-appellants/defendants in suit filed by Lajpat Rai for separate possession by partition of one half share of the plaintiffs in the house.

As per the case, the suit property was purchased by Piare Lal son of Gopi Ram. Piare Lal died intestate on 11.4.1980 and was survived by four sons, namely, Roop Chand, Sarup Chand, Amit Chand, Lajpat Rai and two daughters, namely, Bachno Devi and Bansi Devi as well as widow Purni Devi. Consequently, the suit property was inherited by above named legal heirs to the extent of  $1/7^{\text{th}}$  share. Thereafter, Purni Devi also died intestate and her  $1/7^{\text{th}}$  share devolved upon remaining six legal heirs in equal shares. After that Roop Chand also died and his  $1/6^{\text{th}}$  share was inherited by his four legal heirs and thereby each of them became owner to the extent of  $1/24^{\text{th}}$  share in the suit property. Bachno Devi had sold her share out of the suit property to the plaintiff vide registered sale deed dated 13.2.2003. Sarup Chand brother of the plaintiff had also gifted his  $1/6^{\text{th}}$  share to the plaintiff vide registered gift deed dated 3.7.2007. Thereby, the plaintiff became owner of half share of the suit property whereas defendants No.1 is owner of  $3/8^{\text{th}}$  share in the suit property due to transfer of their shares by Amin Chand and Bansi Devi in favour of defendant No.1 and defendants No.2 to 4 remained owner to the extent of  $1/24^{\text{th}}$  share in the suit property.

The defendants/appellants appeared and contested the suit by filing written statement.

The learned Civil Judge (Junior Division), Ludhiana, after

discussing the evidence produced by the parties passed preliminary decree in the suit filed by Lajpat Rai against Parmodh Verma, Vinod Kumar, Rita Rani and Amar Devi in respect of suit for separate possession by partition of the suit property in favour of the plaintiff being the co-owner of the property by half share. Aggrieved from this judgment, an appeal was filed before the learned District Judge, Ludhiana and the learned Additional District Judge, Ludhiana vide judgment and decree dated 17.3.2015 also dismissed the appeal. Now this regular second appeal has been filed.

I have heard learned counsel for the appellants and have gone through the record.

At the time of arguments, learned counsel for the appellants has not argued anything regarding the share as determined by the lower Court as well as by the first appellate Court. He has only argued that the defendants-appellants are in possession of the whole property since long. Nothing has been argued that the defendants have become owners by way of adverse possession. In other words, the share determined by the Court in the preliminary judgment and decree is not disputed. Nothing has been shown at the time of preliminary hearing that the findings of the Courts below are illegal or against the evidence. The findings given by the Courts below are concurrent as per evidence on record. No substantial question of law arises in this regular second appeal.

As regards the fact that the defendants are in possession over the suit property, I find that is why the plaintiff filed the suit for separate possession. The mode of partition is to be determined during the final

[4]

decree and the present appellants can raise their pleas before the Court in the application for preparing final decree. As regards this appeal, I find that the findings given by the Courts below are correct and as per law and do not require any interference from the Court. No substantial question of law arises in this appeal.

Therefore, finding no merit in this regular second appeal, the same is dismissed.

July 1, 2015.

**(Inderjit Singh)**  
**Judge**

\*hsp\*