

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

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Regular Second Appeal No.3888 of 2015 (O&M)
Date of Decision: August 18, 2015

Rajesh and others

...Appellants

Versus

Jai Bhagwan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Dr. Naresh Kaushik, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.9535-C of 2015

Prayer in this application is for condoning the delay of two days in filing the appeal.

For the reasons mentioned in the application, which is duly supported by the affidavit of appellant-respondent No.1 Rajesh, the present application is allowed.

Delay of two days in filing the appeal is condoned.

RSA No.3888 of 2015

This appeal has been preferred against the judgments and decree passed by the Courts below, by which the suit filed by respondents-plaintiffs 1 to 3 for partition of Khasra No.444 measuring 5 marlas gair mumkin abadi land, has been decreed and the appeal preferred by the appellants-defendants against the same dismissed.

2. It is the contention of the counsel for the appellants-defendants 1, 3, 4 and 5 that they are in exclusive possession of the property in question and, therefore the partition could not have been ordered. He further states that there was a family partition and on the basis of which the said

appellants-defendants had come in possession of the said land, thus the findings recorded by the Courts below cannot be sustained and deserve to be set aside.

3. I have considered the submissions made by the counsel for the appellants-defendants and have gone through the records of the case.

4.. Perusal of the judgments passed by the Courts below clearly establish that the appellants-defendants have failed to prove any family partition. Further the respondents-plaintiffs 1 to 3 have been able to prove that the property in question is a joint property and they are all co-sharers in the same.

5. The judgments and decree passed by the Courts below being in accordance with the pleadings and the evidence produced before the trial Court, do not call for any interference by this Court. There is no perversity or illegality in the same.

6. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

7. In the light of the dismissal of the appeal, the application for stay i.e. CM No.9536-C of 2015, also stands dismissed.

August 18, 2015

Puneet

(AUGUSTINE GEORGE MASIH)

JUDGE