

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

RSA No.4288 of 2015 (O&M)

Date of decision : 09.12.2015

Ashok Kumar and another

...Appellants

Versus

Vishwa Mitra

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Ramesh Sharma, Advocate for appellants.

AMIT RAWAL, J. (Oral)

CM No.10347-C of 2015

Prayer in the application is for condonation of delay of 53 days in refiling the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 53 days in refiling the appeal is condoned.

Application stands allowed.

Main Case

The appellants-defendants are in regular second appeal against the concurrent findings of fact, whereby the suit for partition and as well as

separate possession has been decreed.

Mr. Ramesh Sharma, learned counsel appearing on behalf of appellants-defendants submits, that the family settlement had erroneously not been looked into by both the Courts below and in other litigation, the same has been relied upon by the plaintiff and had that documents been seen, suit for partition was not been maintainable, thus, there is illegality and perversity, much less, no substantial question of law arises for determination.

I have heard learned counsel for the appellants-defendants and appraised the paper book.

Since the suit property on which the partition and separate possession has been sought had been purchased jointly in the name of the parties to the lis. Even if there was family arrangement that could not have been looked into for want of registration as it creates rights for the first time, in essence, once it has been proved, the suit property in dispute has been shown in the name of co-owners, in essence, respondent-plaintiff did not want to retain joint possession and sought the partition and separate possession which resulted into passing of the preliminary decree.

Keeping in view the aforementioned facts, I do not intend to differ with the findings rendered by both the Courts below, much less, no substantial question of law arises for determination.

Appeal is dismissed.

09.12.2015

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**(AMIT RAWAL)
JUDGE**