

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

**Regular Second Appeal No.202 of 2014 (O&M)**

Date of decision: 18.08.2015

Liyakat Ali and others

... Appellants

versus

Abdul Sattar and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

----

Present: Mr. Ravindra Jain, Advocate,  
for the appellants.

----

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ?No.

----

**K.Kannan, J. (Oral)**

The suit was filed for partition by the sons of one Noordin making reference to the fact that the property was purchased in common by the father along with two other persons. The defendants were attempting to now put up construction and modifying the nature of property and hence, the relief was sought by the plaintiff for separate possession of 1/3<sup>rd</sup> share. The defence was that the three purchasers had divided the property amongst themselves and each one had secured to themselves 17 marlas of land. It was also a contention that they had put up separate constructions in the property respectively allotted to them and there

is no scope for bringing a fresh suit for partition. The trial Court had granted the decree on the basis of the revenue entry showing the property to be joint and was discarding a plan produced by the defendant to show the manner of division brought between themselves. In appeal, the judgment has been reversed while considering the evidence on the following facts: the appellate Court referred to the testimony of Noordin's wife Sheela. She stated that the property though purchased jointly by her husband along with Abdul Sattar and Jameel, they had taken 17 marlas each. She had also stated that a house had been constructed separately and Abdul Sattar and Jameel had also constructions separately. The court made reference to the statement of one Liyakat Ali, who was one of the plaintiff's witnesses, that they had raised their separate houses and the constructions were made and enjoyed separately since the last 20/22 years before when the evidence was tendered in court. The court was, therefore, relying on the testimony of Sheela, the wife of Nurdeen and PW3-Liyakat Ali that revealed a case of mutual arrangement between parties, as a result of which each one of them had 17 marlas of land. The court was also making reference to a statement of yet another person Ranjeet, who was a resident of Village Unehri and known to the parties, who gave evidence of the fact that the parties were in separate possession of the houses and after the purchase, they had been in enjoyment of only an extent of

17 marlas of land separately. After setting up the facts and evidence, the court had relied on the judgments of this court which have held that if the co-sharers have brought about division of properties by oral arrangement and they are in enjoyment of properties separately, a fresh suit for partition, treating the same properties as joint, is not competent. The court has dealt with the issue on fact and law correctly and I am afraid, there is no substantial question of law for consideration in the second appeal. Second appeal is dismissed.

**(K.KANNAN)**  
**JUDGE**

18.08.2015  
sanjeev