

SAO-24-2015 (O&M)

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

**SAO-24-2015 (O&M).
Decided on: July 7, 2015.**

Arya Samaj Mandir Dhuri

... Petitioner(s)

VERSUS

Mool Chand and others

... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Vivek Rattan, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL).

Vide impugned order, the lower appellate Court has remanded the suit filed by the plaintiffs-respondents for partition of the property in dispute directing the trial Court to redetermine the share of the parties and pass a preliminary decree.

I have heard the counsel for the appellant and gone through the judgment passed by the trial Court in a suit filed by the plaintiffs-respondents Mangat Rai and others seeking partition of the property claiming 70/380 shares mentioned in the heading of the plaint.

The trial Court for the reasons mentioned in the judgment dismissed the suit. The appeal filed by the plaintiffs-respondents has been allowed and the case remanded to the trial Court. The order passed by the appellate Court appears to be in consonance with the spirit of order 20 Rule 18 CPC which requires

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that in a partition suit where separation cannot be conveniently made, a preliminary decree declaring the rights of the parties interested in the property, giving such directions is required to be passed. The Appellate Court has rightly exercised the jurisdiction.

No prejudice seems to have been caused to the defendant-appellant.

This petition is dismissed. It will be open to the defendant-appellant to contest its claim regarding the property in dispute being not identifiable or capable of partition.

July 7, 2015.
rka

(M.M.S. BEDI)
JUDGE