

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

107

Regular Second Appeal No.698 of 2014 (O&M)
Date of Decision: November 03, 2015

Mahinder Singh and others

...Appellants

Versus

Puran Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Gorakh Nath, Advocate
for the applicants-appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.1595-C of 2014

Prayer in this application is for condonation of delay of 56 days
in re-filing the appeal.

For the reasons mentioned in the application, which is duly
supported by the affidavit of the Clerk of the counsel, the present
application is allowed.

Delay of 56 days in re-filing the appeal stands condoned.

CM No.1598-C of 2014

Prayer in this application is for condonation of delay of 23 days
in filing the appeal.

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

Delay of 23 days in filing the appeal stands condoned.

CM No.1596-C of 2014

Prayer in this application is for exemption from filing the certified copy of Annexure A-1.

Application is allowed.

Exemption from filing the certified copy of Annexure A-1 is granted.

CM No.1597-C of 2014

Application is allowed subject to just exceptions.

CM No.1599-C of 2014

Prayer in this application is for bringing on record the legal representatives of Smt. Krishna Devi, who is stated to have died on 01.11.2007 leaving behind the legal heirs, details of which have been mentioned in para 1 of the application. The application is duly supported by the affidavit of Mahinder Singh-appellant No.1.

In view of the above, the present application is allowed.

Ram Mehar @ Mehar Singh son of Multan Singh, Bala Devi, Kalawati and Sarwan Devi @ Swaran Devi daughters of Multan Singh are impleaded as legal heirs of Krishna Devi.

The memo of parties, which has been filed along with the appeal is taken on record.

RSA No.698 of 2014

Challenge in this appeal is to the judgment and decree passed by the Additional District Judge, Karnal, dated 13.05.2013, by which the appeal preferred by the respondent No.1-plaintiff against the judgment and

decree passed by the Civil Judge (Junior Division), Karnal, dated 26.10.2010 dismissing the suit for partition with consequential relief of rendition of account and permanent injunction, has been accepted and the suit of the respondent No.1-plaintiff decreed.

2. It is the contention of learned counsel for the appellants-defendants that the learned trial Court has rightly proceeded to decide the suit of the respondent No.1-plaintiff and dismissing it on the ground that it was not a partition qua the whole land but it was a part partition. The other ground has rightly been taken that respondent No.1-plaintiff has not been able to show that physical possession was given of movable property to the appellant No.1. He, thus, contends that the judgment and decree passed by the learned Lower Appellate Court cannot sustain and deserves to be set aside.

3. I have considered the submissions made by learned counsel for the appellants and with his assistance have gone through the judgment impugned but do not find any illegality in the same.

4. It is a settled preposition of law that as far as the agricultural property is concerned, the same cannot be got partitioned through a Civil Court and the remedy is before the revenue authorities. The present suit pertains to the property, which is non-agricultural and therefore, the suit has rightly been held to be correctly filed and it cannot be treated as a part partition suit. That apart, the injunction, which has been claimed by the respondent No.1-plaintiff, was only limited to the extent of staying alienation, which injunction can be granted as this was not pertaining to either construction or possession of the property. The judgment and decree passed by the Court below being in accordance with law and on proper

appreciation of the pleadings and the evidence brought on record, do not call for any interference by this Court.

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

November 03, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE