

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

**RSA-2499-2011 (O&M)
Date of decision : 03.10.2016**

Ram Pal Thakral

... Appellant

Versus

Jagjit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ranjit Saini, Advocate
for the appellant.

Mr. Sanjay Vij, Advocate
for the respondent(s).

AMIT RAWAL, J. (ORAL)

The appellant being LR of defendant No.8 is aggrieved of the decretal of the suit seeking separate possession by way of partition of the suit property by stating that the finding of the Courts below determining his share as 1/4th is incorrect, whereas it should have been 1/3rd.

Mr. Ranjit Saini, learned counsel appearing on behalf of the appellant-LR of defendant No.8 submits that Kesra Devi was the grandmother of the appellant and survived by son, namely, Ram Singh, who had three sons and one daughter, namely, Jagjit Singh-plaintiff, Harcharan Singh Sood-defendant No.1, Vachitar Rani-defendant No.2 and Harbans Singh since deceased. Ram Singh was the owner of the property and he predeceased her and therefore, the said property has now been inherited by Jagjit Singh, Harcharan Singh, Vachitar Rani and the LRs of Harbans Singh. In fact, there was a registered partnership deed prior to the death of Ram

Singh i.e. in the year 1964. Vachitar Rani-defendant No.2 was not associated and all three sons had $1/3^{\text{rd}}$ share each. Harcharan Singh had sold his $1/3^{\text{rd}}$ share by registered sale deed to Vijay Kumar Khanna-defendant No.6 and Rajinder Singh-defendant No.7, from whom, the appellant had purchased the property, but this aspect has totally been ignored by the Courts below, in fact there was a specific recital in the sale deed. The courts below have also relied upon registered document i.e. registered partnership deed of the year 1964, thus, the findings of the Courts below are liable to be modified instead of determining $1/4^{\text{th}}$ share, it should have been $1/3^{\text{rd}}$.

Per contra, Mr. Sanjay Vij, learned counsel appearing on behalf of the respondent No.1-plaintiff submits that Jagjit Singh had purchased $1/4^{\text{th}}$ share from the LRs of Harbans Singh. Vachitar Rani-defendant No.2 executed a release deed dated 05.06.1992 (Ex.P-2) in favour of plaintiff, thus, he became the owner of $3/4^{\text{th}}$ share including his own $1/4^{\text{th}}$ share and therefore, Harcharan Singh was left with $1/4^{\text{th}}$ share and not $1/3^{\text{rd}}$ share, thus, urges this Court for affirming the findings under challenge.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the findings arrived at by the Courts below are perfect, legal and justified. Vachitar Rani-defendant No.2 had executed a release deed dated 05.06.1992 (Ex.P-2) in favour of respondent No.1-plaintiff. If she had no share in the property as per the registered partnership deed, the release deed could not have been executed, much less, has not been challenged by setting up a counter claim, thus, as per the natural succession, all the siblings i.e. children of Ram Singh acquired $1/4^{\text{th}}$ share each and Jagjit Singh having purchased $1/4^{\text{th}}$ share from the LRs of Harbans Singh and Vachitar Rani-defendant No.2 having executed a

registered release deed, became the owner of 3/4th share, rightly so, the Courts below have determined his share as 3/4th and of Harcharan Singh as 1/4th share and therefore, Harcharan Singh could not have sold more than what he had i.e. 1/4th share as per the recital in the sale deed in favour of the defendant No.8.

For the foregoing reasons, I do not intend to differ with the findings rendered by both the Courts below, which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination and accordingly, the appeal is dismissed.

03.10.2016
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned

Yes/ No

✓

Whether Reportable

Yes/ No