

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

RSA No.1706 of 2012

Date of Decision.16.12.2016

Tripatjit Kaur

.....Appellant

Vs

Jaswant Singh and others

.....Respondents

Present: Mr. Anurag Arora, Advocate
for the appellant.

Ms. Anuradha Dixit, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

-.-

AMIT RAWAL J. (ORAL)

The appellant is the widow of Manjit Singh son of Gurbachan Singh. The dispute involved in the present appeal is arising out of a suit filed by the plaintiff seeking separate possession by way of partition of the residential house (hereinafter called the suit property). Both the Courts below have decreed the suit and resulting into passing of the preliminary decree. During the pendency of the appeal and after hearing the matter at some length, this Court on 08.12.2016 passed the following order:-

“After hearing arguments for sometime, learned counsel for the appellant-defendant No.1 submits that appellant is in possession of the property, through held jointly by all the siblings i.e. the children of Gurbachan Singh and possession is since quite long.

Ms. Anuradha Dixit, learned counsel appearing on behalf of respondents submits that her client is not averse to the determination of the shares in terms of money, in case the appellant-defendant No.1 is willing to pay out the money.

At this stage, Mr. Anurag Arora, Advocate for the appellant seeks short accommodation.

Adjourned to 15.12.2016.”

Mr. Anurag Arora, learned counsel appearing for the appellant submits that the appellant is a widow and finding it very hard and difficult to make the both ends meet yet the options given in the order aforementioned is acceptable to her as in case of partition, two modes are possible: (i) partition of the property by metes and bounds and (ii) by determining the share after ascertaining the Collector rate, as per the provisions of Section 3, 4 and 5 of the Partition Act. The appellant shall buy out the share of the respondents i.e. Jaswant Singh and as well as the children of Baljit Singh as Baljit Singh and his wife have already died, to be determined by the trial Court after resorting to the provisions of Section 3, 4 and 5 of the aforementioned Act, in essence, on ascertaining of the same, Executing Court shall give reasonable time to the appellant to deposit the amount in Court. If such exercise is done, the appellant shall be entitled to retain the possession of the entire suit property, in essence, the respondents herein and even children of Baljit Singh will not cause any interference in her possession. If otherwise, i.e. appellant does not comply, then the preliminary decree qua partition shall remain in force. Further action qua drawing of final decree will not be hampered. The parties through their counsel are directed to appear before the Executing Court on 09.01.2017. Let this exercise be done within a period of six months.

With the aforementioned observations, the appeal stands disposed of.

(AMIT RAWAL)
JUDGE

December 16, 2016
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No