

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

**RSA No.3281 of 2016 (O&M)
Date of decision:26.09.2016**

Asha Rani and others

... Appellants

Vs.

Rajwanti

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Parminder Singh, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

C.M.No.8715-C-2016

Deficiency of the court fees, has been made good.

C.M. stands disposed of.

RSA No.3281 of 2016 (O&M)

The appellant-defendants are aggrieved of the concurrent findings of facts and law, whereby, the suit for partition and possession *vis-a-vis* the estate of Surinder Kumar, husband of appellant No.1, has been decreed by both the Courts below.

Mr. Parminder Singh, learned counsel appearing on behalf of the appellant-defendants submits that during the pendency of the suit, the father-in-law, i.e., husband of the respondent-plaintiff has also died and he has left behind a Will. Surinder Kumar died leaving behind three legal heirs, i.e., one son and daughter and wife, appellant No.1. No doubt, mother being

first class legal heir is also entitled to the share in the property. He further submits that there are chances of compromise, in case, the property left behind by father-in-law is also settled and the parties are called before the Mediation and Conciliation Centre of this Court.

I have heard learned counsel for the appellant-defendants and appraised the judgments and decrees of the Courts below.

During the course of hearing, this Court raised the question as to whether with regard to estate of father-in-law, the suit has been filed or not, the answer given was in positive. Once the party had already availed the remedy and the property is not subject matter to this Regular Second Appeal, the appellants should not have argued the matter.

It is strange that without disclosing the factum of suit qua estate of father-in-law, learned counsel for the appellant has argued the matter, as noticed above.

As far as, merits of the case is concerned, it is a conceded position on record that Surinder Kumar died intestate and he is survived by appellants, one son and one daughter and his mother being first class legal and accordingly, the Courts below have rightly granted 1/4th share each in the suit property.

In view of the aforementioned observations, 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 of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

September 26, 2016
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No