

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

**RSA No.4854 of 2016 (O&M)
Date of decision:20.09.2016**

Smt. Swaran Arora

... Appellant

Vs.

Karam Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. S.K.Bawa, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

Appellant-defendant No.17 is aggrieved of the judgments and decrees rendered by both the Courts below, whereby, suit seeking separate possession by way of partition of the suit land described in the head note of the plaint, has been decreed.

Mr.S.K.Bawa, learned counsel appearing on behalf of appellant/defendant No.17 submits that the suit was bad for partial partition as appellant/defendant No.17 is a subsequent and bonafide purchaser, therefore, the decree of partition could not have been passed.

I have heard learned counsel for appellant/defendant No.17 and appraised the judgments and decrees of both the Courts below.

Neither any issue of partition has been framed nor the averments had been taken in the written statement in this regard. Moreover, no evidence has been led for dismissal of the suit on the ground of partial partition.

During the course of arguments, Mr.S.K.Bawa, learned counsel for the appellant has relied upon some admission of the plaintiffs regarding joint mess. This can always be taken care of at the time of drawing final decree but not for setting aside the preliminary decree. The preliminary decree only determines the right and share of the parties. There is no evidence on record to belie the claim of the respondents that suit was hit by doctrine akin to partial partition.

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 20, 2016
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No