

LPA no.1395 of 2016 (O&M) 1

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

LPA no.1395 of 2016 (O&M)

Date of Decision : 21.02.2017

Swaran Singh and others

....Appellant(s)

Versus

Financial Commissioner, Appeals-1, Punjab and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

**Present : Mr.Kanwaljit Singh, Sr. Advocate with
Mr. Ajaivir Singh, Advocate for the appellants**

Mr. Amit Jain, Advocate for respondent

MAHESH GROVER, J.(ORAL)

A perusal of the impugned order as also after hearing contentions of the learned counsel for the respondents, we have come to the conclusion that the appellants prima facie did not raise any arguments qua the controversy in writ petition that they had preferred. Learned Single Judge had proceeded to determine the Regular Second Appeal which was listed alongwith to answer the question of title. The mode of partition though questioned in the writ petition was not argued before the learned Single Judge.

Before us the only question that has been raised is that the writ petition has gone unanswered.

Learned counsel for the respondents has strenuously pointed out that the issues raised in the writ petition were never pressed but it was

candidly stated by the appellants that if RSA is decided there would be no necessity of deciding the writ petition.

We are of the opinion that the contentions raised, centre around a disputed question as to whether the present appellants pressed for an answer to the controversy in the writ petition which evidently can be determined only by the learned Single Judge. In case the appellants are so advised they are at liberty to approach the learned Single Judge in this regard for otherwise we are handicapped to hear the arguments in the present appeal in the absence of any decision in writ proceedings considering that if the writ petition was not pressed then LPA would not lie against the judgment rendered in RSA.

Disposed of with liberty to the appellants to approach the learned Single Judge.

(Mahesh Grover)
Judge

21.02.2017
rekha

(Shekher Dhawan)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No