

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

(113)

**RSA-4500-2016 (O&M)
Decided on: July 06, 2017.**

Sukhvir Singh and another

.... Appellants

Versus

Darshan Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Sarju Puri, Advocate, for the appellants.

M.M.S. BEDI, J (ORAL)

This is defendant's second appeal against the judgment and decree passed by the Courts below, decreeing the suit of the plaintiff-respondents for partition of the property which is mentioned in site plan Ex.P-2.

The main contention of learned counsel for the appellants is that the co-owners of the property are in possession of their respective shares, as such presumption of property having been partitioned, would arise as per the judgment of Gauhati High Court in **Hemo Kanta Deka and others Vs. Assam Board of Revenue and others, 2013 (4) GauLT 33** wherein it has been observed that once a property is partitioned by family settlement and the parties have acted upon the family settlement by taking their shares, they would be estopped from raising the plea of invalidity of family settlement after it having been acted upon.

I have heard learned counsel for the appellants and gone through the judgment.

The plaintiff-respondents have been held to be co-owners of the property to the extent of 8/13 share whereas share of defendants have

also been earmarked. This appeal has been filed by only defendants No. 1 and 7.

The majority of the co-sharers are not aggrieved by the determination of the extent of shares of the co-sharers which is primary objective of the preliminary decree passed in a suit for partition. The plea of the appellants that the possession of the parties should be disturbed to the minimum extent, can be raised at the time of final partition.

I do not find any ground in the concurrent findings of fact determining the extent of shares of the parties.

The appeal is dismissed.

(M.M.S. BEDI)
JUDGE

July 06, 2017
harsha

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No