

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No. 4482 of 2015 (O&M)

Date of decision: 13.12.2017.

Birmati Devi

...Appellant

Vs.

Parhlad and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ajit Sihag, Advocate for the appellant.

RAJIV NARAIN RAINA, J. (ORAL)
CM No. 10766-C-2015

For the reasons mentioned in the application duly supported by an affidavit, delay of 115 days in re-filing the appeal is condoned.

CM stands disposed of.

RSA No. 4482 of 2015

1. This is an appeal filed against the judgment dated 10.12.2014 passed by the learned District Judge, Hisar and the order dated 08.08.2014 passed by the learned Civil Judge, Junior Division, Hansi.

2. The report of the Local Commissioner is not determinative of the rights of the parties to a particular portion of the joint land. A sale by a co-sharer to the 3rd party by a registered sale deed describing the land in khasra numbers will not be final determination of ownership of the khasra numbers mentioned in the sale deed since the land was not partitioned either in 2005 when the plaintiff-appellant purchased 01

kanal and 01 marla of land and another 3rd party purchased another piece of land by registered sale deed from the same co-sharer from the joint land. So long as both the lands are within the share of the common vendor no difficulty arises. Therefore, the plaintiff-appellant could not insist or prove that the sale deed holder of the year 2011 was an encroacher upon her land. The injunction sought could not be issued.

3. The only way out for the parties is to seek partition of the land. This is what the Courts below have said in their judgments and final decree and I have no reason whatsoever to disagree with them on pure findings of fact recorded in the judgment in appeal. Besides, the appeal does not raise any question of law, much less substantial, for determination on the regular second appeal side of this Court.

4. As a result of the discussion, I find no merit in this appeal and the same is hereby dismissed upon hearing counsel.

[RAJIV NARAIN RAINA]
JUDGE

13.12.2017

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Whether speaking/reasoned: Yes

Whether Reportable: No