

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.5334 of 2015 (O&M)

Date of Decision: 20.09.2017

Smt. Ato Devi through her LR Amro Devi

... Appellant

Versus

Satpal Singh and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ashok Kumar Khubbar, Advocate,
for the appellant.

ANIL KSHETARPAL, J. (ORAL).

CM 12696-C of 2017

For the reasons stated in the application, delay of 30 days' in
refiling the present appeal is condoned.

CM 12697-C of 2017

This is an application for making good the deficiency in Court
fees.

Allowed as prayed for. The deficiency in payment of Court fee
has already been made good. Delay, if any, is condoned.

Main Case.

The plaintiff is in Regular Second Appeal against the
concurrent finding of fact arrived at by the Courts below.

The son of the plaintiff had sold the land identified by specific
Khasra Number out of a joint Khewat to the defendants. It is also recorded
that in the sale deed that the possession of the aforesaid Khasra Number
was given to the defendants. It is further proved on the file that the son of
the plaintiff had admitted the possession of the defendants over the Khasra

Number vide compromise/settlement deed dated 22.11.1995. The plaintiff as well as her son had also executed affidavit admitting the possession of the defendants over the specific Khasra Number. In the present proceedings, the plaintiff did not appear in the witness box but her son Mulakh Raj appeared. He admitted in the evidence that the land in dispute is in possession of the defendants. The suit is only for permanent injunction.

Learned counsel for the appellant has argued that the purchase of specific Khasra Number in a joint Khewat would still be purchase of a share. He submits that therefore, the defendants had become co-sharers.

I have considered the submission of the learned counsel for the appellant.

There is no doubt that if a purchaser purchases the property described by specific Khasra Number out of a joint Khewat, such purchase shall be of the share out of joint Khata. However, this is not the dispute in the present case. In this case, the plaintiff, who is appellant had filed a suit for permanent injunction.

Both the Courts have concurrently found that the defendants are in possession of the land comprised in aforesaid Khasra Number. Remedy for the plaintiff is to file proceedings for partition of the property.

In view of what has been discussed above, I do not find any good ground to interfere in the finding recorded by the Courts below.

The appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

20.09.2017
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No