

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

**RSA No. 3915 of 2017
Date of decision : 20.11.2017**

Chhote Lal and ors.

...Appellants

versus

Dharam Chand and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Thakan, Advocate
for the appellants.

RITU BAHRI, J.

C.M. No. 9842-C-2017

For the reasons mentioned in the application, delay of 151 days
in filing of the present appeal is hereby condoned.

The application stands disposed of.

R.S.A No. 3915-2017

This regular second appeal is directed against the judgment
and decree dated 15.11.2016 passed by the Addl. District Judge, Jhajjar
whereby the judgment and decree dated 03.03.2015 has been upheld
whereby the suit of the respondents for permanent injunction regarding the
residential plot situated within the abadi deh of village Amadal Shahpur,
Tehsil Matenheil, District Jhajjar has been decreed.

Brief facts of the case set up by the plaintiffs are that they are
owners-in-possession of the above said plot. They pleaded that their fathers
i.e Duli Chand and Ram Swaroop had previously filed a civil suit for

possession by way of partition regarding plots bearing Khasra Nos. 131, 133, 134 and 135 total measuring 04 kanal 02 marlas and the same was decreed vide judgment and decree dated 26.02.1980 where the fathers of the plaintiffs were held entitled for 1/21 share of the plots above.

The only stand taken by the appellants-defendants before the Courts below that the plaintiffs could not claim exclusive possession over the plot, on the basis of said decree of partition, which had turned infructuous and in face inoperative, by virtue of non-execution of the same.

Both the Courts below have rightly decreed the suit of the plaintiffs on the ground that since the parties had obtained their respective possessions as per the final decree, therefore, the execution application was not pursued. It is a settled proposition of law that in a suit for possession by way of partition, each of the parties bears the status of the plaintiffs and likewise, when the defendants did not file an appeal against the fundamental decree dated 26.02.1980, it can be well understood that the appellants were fully satisfied with the decision of the case.

The finding of facts recorded by both the Courts below does not require any interference by this Court.

No substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

20.11.2017
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No