

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

**RSA No.2034 of 2016 (O&M)
Date of Decision:24.07.2018**

Prem Lata and others

...Appellants

Versus

Ram Singh (deceased) through LRs and others

...Respondents

RSA No.3248 of 2016 (O&M)

Usha Yadav

...Appellant

Versus

Ram Singh (deceased) through LRs and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Jai Vir Yadav, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

CM-5373-C-2016

For the reasons stated in the application, which is supported by an affidavit, delay of 70 days in filing the appeal is condoned.

CM stands allowed.

Main case

This judgment shall dispose of two appeals bearing RSA Nos.2034 of 2016 and 3248 of 2016, as both are arising out of one civil suit. In fact, different plaintiffs have filed separate regular second appeals.

The plaintiffs are in the regular second appeal against the concurrent findings of fact arrived at by the courts below, while dismissing

the suit for permanent injunction, restraining the contesting defendants from raising any construction over the property in dispute, which is claimed to be joint. Kanwar Singh (PW-6), when appeared as witness on behalf of the plaintiffs, admitted that they had filed an application for partition of the property which was dismissed.

Still further, the courts have found that the property has been partitioned and proforma defendants have raised the construction in accordance with their share including front portion of the property on the road. On the basis of the aforesaid evidence, the courts have drawn conclusion that the property in fact has been partitioned between the parties.

Learned counsel appearing on behalf of the appellants has submitted that there is no document of partition and as per the revenue record, the property still continues to be in the joint name of the plaintiffs and the contesting respondents.

No doubt, in the revenue record, the property is being depicted as joint, however, once it is an admitted fact that application for partition filed by the plaintiffs has been dismissed and there was other evidence available on the file, which proves a mutual partition between the co-sharers, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the courts below.

Dismissed.

24.07.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No