

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

RSA No.3438 of 2016

Date of Decision.09.05.2018

Ismail

...Appellant

Vs

Mazid deceased through LRs and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Virender Mandhan, Advocate
for the appellants.

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AMIT RAWAL J.(ORAL)

C.M. No.9024-C of 2016

For the reasons stated in the application, delay of 47 days
in re-filing the appeal is condoned.

Application is allowed.

RSA No.3438 of 2016

The appellant-plaintiff is in regular second appeal against the concurrent finding of fact whereby the suit for partition of the property comprising Khewat No.267/269, Khatoni No.379, Khasra No.200(0-6) situated in village Sheikhpura, Teshil and District Karnal as per the jamabandi for the year 1999-2000 had been dismissed by the trial Court and upheld by the lower Appellate Court.

Learned counsel appearing on behalf of the appellant-plaintiff submitted that the property was owned by Baru. He had four sons. All the four sons were impleaded as parties in the aforementioned suit including the plaintiff but three daughters were not impleaded as the parties were governed by Mitakshra law. The suit was dismissed on the premise that it was bad for partial partition

and non-impleadment of necessary and proper parties. There was already a family settlement between the parties and all the three sisters regarding the *bara*, which was allotted to defendant No.3 wherein two *chhapars* had been constructed. The finding of fact arrived at by the Courts below was, thus, totally erroneous and against the documentary evidence brought on record, thus, there is illegality and perversity.

I have heard learned counsel for the appellant-plaintiff. Concededly parties to the *lis* are governed by Mitakshra Law. In the suit for partition, all the co-owners are required to be impleaded. Concededly, sisters were not impleaded. Owing to the fact that they are governed by Mitakshra Law, the sisters were required to be impleaded. It is on that aspect, the suit for partition was dismissed. The appellants ought to have moved application for impleadment of the sisters in case they were co-sharers.

In view of the aforementioned, I do not find any illegality and perversity in the findings rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 09, 2018
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No