

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

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RSA No.2549 of 2015 (O & M)
Date of Decision:24.07.2018

Sita Devi @ Sita Wati and others

...Appellants

Versus

Rajinder Pal

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Robin Dutt, Advocate
for the appellants.

Mr. Ramesh Arora, Advocate
for the respondent.

ANIL KSHETARPAL, J.(Oral)

Defendants-appellants are in the regular second appeal against the concurrent findings of fact arrived at by the Courts below.

Suit filed by the plaintiff-respondent for separate possession by way of partition has been decided and preliminary decree for partition has been passed after declaring that the plaintiff and the defendants are co-owners to the extent of half share each in House No.137/A.

It is not in dispute that the property was purchased by the plaintiff and predecessor of the defendants namely Sat Paul vide registered sale deed dated 11.09.1962, which was registered on 12.09.1962. Plaintiff filed a suit claiming partition of the property. Defendants claimed that the property was purchased by Sh. Sat Paul, their predecessor and name of the plaintiff was included being younger brother, although, he was not having any source of income.

Both the Courts after appreciating the evidence available on the file, have decreed the suit and held that property was jointly purchased and, therefore, suit for partition is maintainable.

Learned counsel for the appellants has argued that half share of the property was on license with the defendants and since they have raised permanent structure, therefore, the license has become irrevocable.

This Court has considered the submission. Once both the parties are co-owners, there is no question of any license by one co-owner in favour of other. Every co-owner is owner of every part of the property and is to utilize the same in accordance with law. Any construction made by a co-owner exclusively would not confer right in the entire property. A co-owner would remain a co-owner and, therefore, the Courts below have rightly passed a preliminary decree for partition.

In view thereof, there is no ground to interfere.

Regular second appeal is dismissed.

All the miscellaneous applications, if any, are disposed of, in view of the above said judgment.

24.07.2018

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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No