

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

**RSA No.6571 of 2016 (O&M)
Date of Decision.13.11.2018**

Kulbir Singh and anotherAppellants
Vs

Sher Singh ...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sunil Agnihotri, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

C.M. No.17196-C of 2016

For the reasons stated in the application, delay of 317
days in re-filing of the appeal is condoned.

Application is allowed.

C.M. No.17197-C of 2016

For the reasons stated in the application, delay of 24 days
in filing of the appeal is condoned.

Application is allowed.

RSA No.6571 of 2016

The appellants-defendants have not been successful in
defending the suit for rendition of account of rent in respect of
room/office shown in red colour in the site plan.

The plaintiff filed the suit aforementioned on the premise
that one room was rented out at monthly rent of ₹1000/- and the same
was in possession of the defendants. However, during the life time of
Piara Singh, who was earlier in possession, a sum of ₹500/- per
month with mutual consent was paid but after death of Piara Singh,

defendants have been receiving ₹1000/- per month but not paid half share to the plaintiff i.e. ₹500/- as Piara Singh and Sher Singh were joint owners to the extent of half share.

The appellants-defendants opposed the suit though admitted jointness of the ownership of the property but denied that any amount was outstanding.

On the preponderance of evidence, the trial Court decreed the suit entitled the plaintiff to a sum of ₹1000/- per month from 11.05.2002 till filing of the suit i.e. amounting to ₹36,000/-. The appeal laid before the lower Appellate Court by the defendants was also dismissed.

Mr. Sunil Agnihotri, learned counsel appearing on behalf of the appellants submitted that both the Courts below have committed illegality and perversity in decreeing the suit, as the case set out by the plaintiff was based upon falsehood. The property was not partitioned and therefore, plaintiff had no right to claim half of the rent, despite the fact that rate of rent was not denied. No suggestion was put with regard to rate of rent. The registered will dated 22.08.1997 was cancelled by the grandfather of the appellants-defendants. All these factors have gone unnoticed.

I am afraid aforementioned argument of Mr. Agnihotri is not sustainable as the factum of the property being joint has been admitted, much less, leasing out of the same for generating rent. In such circumstances, other co-sharer definitely had right to half rent which was earlier being paid and when denied, filed suit for rendition of account.

In view of the aforementioned, no fault can be found with the concurrent finding of fact which is based upon correct appreciation of fact and law, 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

November 13, 2018

Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No