

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

**RSA No.2986 of 2014
Date of Decision: 16.02.2018**

Paramjit Kaur

.....Appellant

Vs.

Charanjit Singh

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Inderjit Sharma, Advocate, for the appellant.

Mr.Ranjit Saini, Advocate, for the respondent.

RITU BAHRI, J. (ORAL)

The appellant-Paramjit Kaur has come up in regular second appeal against the judgments of the trial Court dated 05.11.2011 and learned appellate Court, Hoshiarpur, dated 15.03.2013 whereby suit for declaration to the effect that appellant is owner in possession of the house attached with the site plan and properties details given in the plaint on the basis of final settlement dated 26.03.2004 has been dismissed.

The brief facts of the case are that the marriage of appellant/plaintiff i.e. Paramjit Kaur was solemnized on 01.02.1992 and two female children namely Guleen Kaur and Ramandeep Kaur were born out of their wedlock. The plaintiff/appellant has filed suit through special attorney Harjit Kaur her mother. The case set up by her that defendant/respondent purchased land measuring 10 Marlas vide sale deed dated 10.02.1993 and raised residential house in it. In which plaintiff/appellant and defendant/respondent have been living along with their children. Defendant/respondent has been residing in Amerika for the last more than 15 years and used to come to India time and again and some differences between the parties were developed. On 26.03.2004, when the defendant/respondent was in India, an oral family settlement partition took place between the parties and agricultural land was left joint ownership in

joint possession and residential house was partitioned in two parts. The house was given to plaintiff/appellant and minor children as her exclusive ownership but other portion was given to defendant/respondent for residential purpose.

On notice, defendant/respondent appeared and filed written statements with preliminary objections that the plaintiff has no locus standi to file the suit and the suit is not maintainable in the present for and plaintiff has no cause of action to file the present suit. Thereafter, on the pleadings of the parties, issues were framed.

After going through the concurrent findings of the Courts below it has been held that witnesses examined by the plaintiff in order to prove oral family settlement are related to the plaintiff/appellant and PW-1 Harjit Kaur and PW-2 Balwinder Kaur are interested witness. PW-3 Bachan Singh stated that Parakut Kaur along with her children had gone abroad on 11.09.2005 and he did not know anything about the case of the partition between the parties. He further stated that he was unable to tell the name of the Sarpanch of the Panchayat where oral partition was taken place. DW-1 Bakshish Singh, power of attorney of the defendant/respondent and DW-2 Malkiat Singh denied the execution of any oral family settlement between the parties and jamabandi for the year 1989-99 and 2004-2005 which reflected that vide mutation No.3275 Charanjit singh became owner of 10 marlas of land;

So in view of the above, the orders of the Courts below do not reflect any material irregularity or perversity which warranting interference. Hence the present revision stands dismissed.

(RITU BAHRI)
JUDGE

16.02.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No