

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

**RSA No.911 of 2016 (O&M)
Date of Decision.14.12.2018**

Surinder KaurAppellant

Vs

Joginder Kaur ...Respondent

2. RSA No.3343 of 2016

Surinder Kaur and anotherAppellants

Vs

Joginder Kaur ...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Nakul Sharma, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

In pursuance of order dated 01.11.2018, costs of Rs.2500/- in each case has been deposited.

This order of mine shall dispose of two regular second appeals arise out of decretal of civil suit filed by the respondent-plaintiff for partition and injunction and dismissal of the counter-claim of the appellant-defendants for exclusive ownership.

The short point involved in this case is whether a letter written by husband of the plaintiff from Tanzania to another relative in the 1991 for partition, would determine the partition in respect of property situated in village and within Municipal area. In the absence of any reflection in the revenue record, the answer would be no.

Mr. Nakul Sharma, learned counsel appearing on behalf of the appellant vehemently relied upon the aforementioned letter to

establish that oral partition is recognized in law.

I am afraid aforementioned argument is not sustainable, in the facts and circumstances of the present case as the implied act of partition, even if the plaintiff had appeared through the attorney, has not been proved on record. The question of exclusive possession can always be seen at the time of drawing of the final decree.

In view of the aforementioned observations, I do not find any illegality and perversity in the concurrent finding of fact rendered by the Courts below in declining the relief of ownership by passing preliminary decree for partition, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, both the second appeals are dismissed.

(AMIT RAWAL)
JUDGE

December 14, 2018

Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No