

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

**Regular Second Appeal No.5994 of 2015 (O&M)
Date of Decision: April 19, 2018.**

Agya Pal Singh and another

.....APPELLANT(s).

VERSUS

Dilawar Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. A.S. Manaise, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Heard.

This is appeal against the concurrent findings of the Courts below decreeing the suit of the plaintiff and passing a preliminary decree for partition and separate possession of the share of plaintiff in the suit property.

It is not disputed that the parties are cosharers in the suit property which has not been partitioned so far. It has also been admitted that the appellants-defendants as well as plaintiff have purchased shares of the previous co-owners of the suit property.

Learned counsel for the appellants argues that the appellants had purchased share in the suit property from the previous owners Kewal Singh and Kripal Singh but in fact, they were given possession of dilapidated house which is still in their possession. Despite sale of share in

suit land to plaintiff and appellants, they were given possession of specific portions of land, which amounts to partition, as such, relief of partition as sought by respondent No.1-plaintiff could not be allowed.

It is well settled proposition of law that sale of specific portion of land by cosharers is to be treated as sale out of his share. In this case, the previous co-owners have sold their share in suit land to appellants and respondent No.1. Even if, possession of specific portions was given under the sale deeds executed by them, the suit property remains joint and the plaintiff is entitled to get his share separated. As to which share of the land is to be given to a co-owners, is subject matter to be seen and determined at the time of actual partition and while suggesting mode of partition. Consequently, the submission made by learned counsel for the appellants has no merits.

No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

(SURINDER GUPTA)
JUDGE

April 19, 2018.
Sachin M.

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***