

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

102

RSA-857-2015 (O&M)

Date of Decision : 05.02.2018

Rita Devi and another

..... Appellants

Versus

Kaushalya and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Jai Singh Yadav, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

By this appeal the appellants have challenged the concurrent judgments of the Courts below dismissing a suit filed by them.

The appellants had filed a suit against their mother, brothers, sisters and grand-father claiming that they were coparceners and to the effect that the decree suffered by their father in favour of the respondents was illegal. The suit was initially decreed ex-parte. However, in an application under Order 9 Rule 13 CPC the ex-parte proceedings were set aside and the matter was fixed for re-hearing. On the second occasion, the appellants did not lead any evidence and consequently the suit was dismissed on that ground. The lower appellate court dismissed their appeal and that is how the appellants are before this Court.

Counsel for the appellants has argued that the evidence already on the record should have been considered. I find this to be an unacceptable argument. Once the ex-parte proceedings were set aside and that was accepted by the appellants there is no question of the ex-parte evidence

having been read.

Consequently, no fault can be found with the judgments of the courts below. Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

February 05, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No