

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

**RSA-4304-2014 (O&M)
Date of decision : 18.01.2018**

Hussan Chand and others	 Appellants.
Versus	
Sudesh Kumar and others	 Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Vijay Lath, Advocate for the appellants.

Mr. Naveen Batra, Advocate for respondent No. 1.

Mr. Surinder Sharma, Advocate for respondents no. 2 to 4.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Impugned in the present regular second appeal is the judgment dated 29.1.2014 passed by learned Additional District Judge (Fast Track Court) Rupnagar, affirming the judgment and decree dated 15.12.2011 passed by learned Civil Judge (Junior Division), Anandpur Sahib, vide which suit filed by Sudesh Kumar/respondent No.1-plaintiff was decreed and preliminary decree was passed, declaring that plaintiff is co-sharer in joint possession to the extent of 1/2 share in disputed property and is entitled to separate possession by way of partition by metes and bounds.

Heard.

Learned counsel for the appellants-defendants does not dispute the correctness of the decree. His only contention is that in view of the law laid down by this Court in *Surjit Kaur vs. Rani Manchanda, 1998(2) RCR (Civil) 668*, the share of the defendant(s) also should have been declared in the preliminary decree, though they had not claimed in partition.

I am of the view that for this short question the case cannot be remanded back and the matter can be settled here.

A perusal of the *jamabandies i.e. Annexures P-8 and P-9* show that Sudesh Kumari-plaintiff has 1/2 share in the disputed property whereas Hussan Chand-defendant No. 1 has 1/4th share and Shakuntla Devi, Kamla Devi, Pushpa Devi, Darshana Devi (daughters of Jeet Singh), Om Parkash, Desh Raj, Sat Pal and Surinder Kumar have 1/4th share jointly. The entries in the *jamabandies* are not disputed by either of the parties. Therefore, the preliminary judgment and decree dated 15.12.2011 passed by the trial Court stands amended to the effect that it is also declared that Hussan Chand is having 1/4th share and Shakuntla Devi, Kamla Devi, Pushpa Devi, Darshana Devi, daughters of Jeet Singh, Om Parkash, Desh Raj, Sat Pal and Surinder Kumar have 1/32 shares each in the disputed property.

In view of above, present regular second appeal is partly allowed to the above noted extent. The amended decree sheet be also prepared in addition to 1/4th share of the plaintiff-respondent.

Let lower Courts records be returned back so that proceedings for the final decree are not delayed.

(KULDIP SINGH)
JUDGE

18.01.2018
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Whether speaking / reasoned	Yes
Whether Reportable:	No