

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

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RSA No.1533 of 2018 (O&M)

Date of Decision : 16.03.2018

Gobind Lal

..... Appellant

Versus

Shadi Lal and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. S.R.Hooda, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments and decrees of the courts below allowing suit bearing Civil Suit No.703 of 2008 filed by the two brothers of the appellant and granting preliminary decree of partition.

It may be mentioned here that another suit bearing Civil Suit No.704 of 2008 had been filed by the sisters of the appellant. In both the cases, the dispute is with regard to the House No.YA-716 situated at Bhiwani. The claim of the brothers was that the said house was the self-acquired property of the parents of the parties. The father had willed his half share in favour of the mother and now the mother had willed the property in favour of the three brothers. The claim of the sisters on the other hand was that the Will was invalid while the claim of the appellant

whereby he had paid off his two brothers and had become exclusive owner of the house. The trial court accepted the Will and consequently dismissed the suit filed by the sisters and decreed the suit filed by the two brothers. Against the dismissal of the suit, the sisters filed two separate appeals while against the decree in the suit filed by the brothers the appellant filed one appeal. All these three appeals were heard together and were dismissed. Further both the courts below disbelieved the oral family settlement set up by the appellant. Consequently, the appellant has filed the instant regular second appeal against the dismissal of his appeal.

Counsel for the appellant states that Ashok Kumar-one of the respondents in his testimony had admitted his signature on the document Ex.PW9/A. This document is very interesting. As per the counsel, this document is a receipt which mentions that he has received his 1/3rd value of the house which has been fixed at Rs.50,000/-. However, the statement of the said respondent was that though he admits his signature but the same was taken on blank paper by the appellant on the ground that his signature was required for permission to make some construction. The courts below have accepted this explanation probably because in the year 1995 there was no double storey house in Bhiwani's municipal limits which could be Rs.1,50,000/- in value.

Counsel for the appellant has not been able to show me that the finding of fact arrived at by the courts below are liable for interference in second appeal.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending Civil Miscellaneous Application, if any, also stands disposed of.

16.03.2018
Pooja sharma-I

(AJAY TEWARI)
JUDGE

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