

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

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RSA No.164 of 2018 (O & M)
Date of Decision:.11.01.2018

Gurditta Singh

...Appellant

Versus

Beant Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anupam Singla, Advocate
for the appellant.

ANIL KSHETARPAL, J.(Oral)

Defendant No.2-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the Courts below.

Plaintiffs-respondents had filed a suit for separate possession by way of partition of the property, which is joint between the parties. On the other hand, defendant pleaded that the property has already been partitioned and respective houses has been constructed.

Both the Courts on appreciation of evidence, have found that the defendant-appellant has failed to prove any partition between the parties. The Courts have further noticed that the property in dispute is reflected in the revenue record as joint.

With these observations, the Courts have decreed the suit.

I have heard learned counsel for the appellant at length and with his able assistance gone through the judgments passed by the Courts below.

Learned counsel for the appellant has vehemently argued that

once parties have constructed their respective houses, the Courts below have committed an error in refusing to infer that there was partition between the family members. He has further referred to the statement of the plaintiffs admitting that respective houses have been constructed.

I have considered the submission, however, this Court is unable to agree with the counsel for the appellant. The property is joint in the revenue record. There is no evidence available on the file to infer partition of the property. Merely because parties have settled in their respective possession or constructed houses, the partition between the members cannot be assumed. Partition is a positive fact which has to be taken by the parties to separate their status in accordance with law.

In view thereof, there is no scope for interference.

Hence, this regular second appeal is dismissed.

11.01.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No