

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

129

RSA No.2377 of 2017 (O&M)

Date of decision: 06.08.2018

Sudesh and another

..... Appellants

Versus

Shiv Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Pardeep Goyal, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

CM-5789-C-2017

Application is allowed and the delay in re-filing the appeal is
condoned.

Main Case

Plaintiffs-appellants are in the regular second appeal against
the concurrent finding of fact arrived at by the Courts below.

Ram Phal, the common ancestor of the parties was having two
sons namely Firey Ram and Jaswant. Acknowledging a family settlement,
to the effect that the property in dispute had fallen to the share of Shiv
Singh and Pawan Kumar, both minor sons of Jaswant, a decree was passed
by the Civil Court under Order 12 Rule 6, CPC. This decree passed by the
Civil Court has been challenged by filing present suit by the plaintiffs,
daughters of Firey Ram. Both the Courts have noticed that this decree was
earlier challenged by the mother of the plaintiffs i.e. Smt. Santra, which was

dismissed.

Both the Courts have further found that the plaintiffs have failed to prove that the property in the hands of Ram Phal was ancestral. In any case, once in a family settlement, the properties had been divided which was duly acknowledged by a decree dated 29.05.1999, the character of the property does not retain the character of joint Hindu family or ancestral after partition/division. Still further, it is not in dispute that Firey Ram was alive when the suit was filed. Firey Ram never challenged either the family settlement or the decree passed by the Civil Court on the basis thereof.

In view thereof, there is no scope for interference with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

06.08.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No