

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

RSA No. 1978 of 2018(O&M)

Date of decision: 18.4.2018

Shankar Lal (since deceased) through his LR'sAppellant

VERSUS

Hari RamRespondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Deepak Jain, Advocate for the appellant.

REKHA MITTAL, J.

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for partition of khasra No.605 measuring 12 karams situated at village Panniwala Mota, Tehsil and District Sirsa filed by the respondent/plaintiff was decreed by the trial Court vide judgment and decree dated 02.02.2015 and the appeal preferred by Shanker Lal (since deceased represented by his LR's), brother of Hari Ram did not find favour with the Additional District Judge, Sirsa.

The sole submission made by counsel for the appellant is that the respondent/plaintiff did not adduce any evidence except copy of jamabandi for the year 2007-08 to prove his ownership of Khasra No.605 but presumption of correctness attached to entries in Jamabandi is rebuttable and has been sufficiently rebutted by the appellant/defendant.

I have heard counsel for the appellant, perused the paper-book particularly the judgments passed by the Courts.

Indisputably, Hari Ram – respondent/plaintiff and Shanker Lal - defendant (since deceased) are real brothers being sons of Basti Ram. In the Jamabandi for the year 2007-08, suit property comprised in khasra No.605 is shown to be co-owned by Hari Ram and Shanker Lal to the extent of half share each. Shankar Lal, in the written statement has raised the plea that he is absolute owner in possession of the suit property on the premise that an oral partition took place between the brothers 30-32 years ago and the appellant/defendant got whole of khasra No.605 and respondent/plaintiff got 18 marlas of khasra No.587. As soon as the appellant/defendant had raised a plea of oral partition between the co-owners, the law imposes an obligation upon such co-owner to establish his plea of oral family settlement by leading cogent and convincing evidence to rebut the entries of joint owners in revenue records. Counsel for the appellant has failed to point out any such materials on record which either escaped notice of the Courts or has been wrongly interpreted by the Courts. In this view of the matter, it can be safely held that the judgments passed by the Courts neither suffer from error nor raise a question of law that needs determination after notice to the contesting party.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

APRIL 18, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no