

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

RSA-2319-2018 (O&M)
Date of Decision:-8.5.2018

Harpal

... Appellant

Versus

Hari Chand through his LRs

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Bhisham Kumar Mojoka, Advocate for the appellant.

GURVINDER SINGH GILL, J.

In view of the reasons mentioned in the applicaiton, delay of 8 days in refileing of the appeal is condoned.

The appellant/plaintiff assails the impugned judgment, wherein the findings of lower Court to the effect that suit property is no longer jointly held have been affirmed. The appellant had initially filed a suit for possession by way of partition of the suit property situated within the Abadi Deh of Village Akbarpur Dakora, District Palwal. While it is the case of the appellant/plaintiff that the parties are joint owners in joint possession over the suit property, the stand of the respondents/defendants is that the suit property had been partitioned wayback on 15.6.1963 and that they are in separate possession of their respective shares.

Both the Courts below have returned a concurrent findings to the effect that the parties are in possession of their separate share consequent upon partition.

The learned counsel for the appellant/plaintiff has, however, assailed the said findings while submitting that no document regarding partition dated 15.6.1963 has been brought on record and nor any such partition has been proved and that there is no evidence to establish that the partition had indeed taken place on 15.6.1963 or that any partition had taken place prior to 1963.

I have considered the aforesaid submissions. A perusal of the impugned judgment as well as the judgment of the lower Court indicates that the Courts below have taken into account that the appellant/plaintiff Harpal during his cross-examination had himself admitted that the parties are in separate possession. So much so, he has categorically stated regarding the areas in possession. He has stated that he is in possession of 13'.4" X 32'.6"; Sukh Ram is in possession of 13'.4" X 36' and Zile Singh is in possession of 54' X 18'.19".

In view of the aforesaid categoric admission, the fact that no specific document regarding partition has been brought on record loses significance as specific separate possession of the shares in the suit property is indicative that a partition had indeed taken place.

I do not find any reason to interfere with the concurrent findings as recorded by the Courts below. There is no merit in this appeal and the same is hereby dismissed.

8.5.2018

pankaj

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No

(Gurvinder Singh Gill)
Judge