

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

RSA No.4561 of 2017 (O&M)

Date of decision: 19.04.2018

Kiran Pal and another

..... Appellants

Versus

Rachna Ram and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Aayush Gupta, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

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

Plaintiffs filed a suit for separate possession by way of partition of residential house comprised in the land measuring 5 kanal 18 marlas situated in Village Jangu Majra, Tehsil Naraingarh, District Ambala. Both the Courts have dismissed the suit on two grounds:-

1. All the owners have not been made party as sisters who were Class I heirs are not party to the litigation.
2. All the properties between the co-owners have not been included.

Learned counsel for the appellants has submitted that the plaintiffs filed an application for additional evidence to prove that there was an earlier decree passed by the Court on 18.12.1980 declaring Jora Singh, Nirmal Singh and Parmal Singh as owners of the property. He has submitted that in view of the additional evidence sought to be produced, sisters would

not be necessary party.

However, when learned counsel for the appellants was confronted with the fact that while all the parties have not been included, learned counsel only submitted that the property is situated within the abadi and there is no document of title.

It is not in dispute that the plaintiffs are not claiming that the property in abadi is not owned by all the co-owners. Such being the position, it is always open to the plaintiffs to file a fresh suit for partition by impleading proper parties and by including all the properties owned by the joint owners.

In view thereof, the appeal is dismissed with the observation that the plaintiffs would be at liberty to file a fresh suit by impleading all the necessary parties and by including all the properties owned jointly by the parties.

19.04.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No