

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 5451 of 2017(O&M)
Date of decision : November 15, 2018

Satish Kumar

..... Appellants

Versus

Suresh Kumar Goel (deceased through L.Rs and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Navneet Jindal, Advocate
for the appellant.

AMIT RAWAL, J (oral).

The appellant-defendant No.1 is in Regular Second Appeal against the concurrent finding of fact whereby in a suit for partition preliminary decree was passed according the status of co-owner to the parties to the *lis*.

Learned counsel for the appellant submitted that the specific objection with regard to the existence of oral partition which had taken place twenty years ago was categoric but not considered by the courts below as date of partition was not pleaded, therefore there is gross illegality and perversity in the finding arrived at by the courts below. No other issue has been raised.

On going through the record of the court below as well as judgment, it is deciphered that except oral testimony, documentary evidence showed jointness of the property, even if parties have been living separately.

The co-owner has a right over each and every inch of land until and unless the same is partitioned. The appellant would have right to

protect his right, if permissible only at the time of passing of final decree and not at this stage.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

November 15, 2018
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No