

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

**RSA No.582 of 2017 (O&M)
Date of Decision.06.12.2018**

Sham LalAppellant

Vs

Dinesh Kumar and others ...Respondents

2. RSA No.705 of 2017 (O&M)

Sham LalAppellant

Vs

Anil Sharma and others ...Respondents

3. RSA No.708 of 2017 (O&M)

Sham LalAppellant

Vs

Raj Kumar ...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Manoj Kumar, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.1239-C of 2017 in RSA No.582 of 2017
C.M. No.1531-C of 2017 in RSA No.708 of 2017

For the reasons stated in the application, delay of 5 days
in filing of the appeals is condoned.

Application is allowed.

C.M. No.1518-C of 2017 in RSA No.705 of 2017

For the reasons stated in the application, delay of 9 days
in filing of the appeal is condoned.

Application is allowed.

Main cases

This order of mine shall dispose of three regular second appeals bearing No.582, 705 and 708 of 2017.

The appellant-Sham Lal is plaintiff in the civil suit No.32 of 2012 which is subject matter of appeal in RSA No.582 of 2017 and defendant in Civil Suits No.37 and 38 of 2012 which are subject matter of appeal in RSA No.705 and 708 of 2012. Sham Lal, Bimla Devi and Raj Kumar filed cases against each other seeking injunction. Appellant-Sham Lal claimed to be in exclusive possession of 4 kanals 7 marlas whereas Raj Kumar and Bimla Devi sought restraint against Sham Lal from raising construction.

The trial Court dismissed all the three suits. Consequently, three appeals were filed. The appeal filed by Bimla Devi (D) through LRs has been partly allowed ordering correction in the revenue record regarding the possession of Bimla Devi being a co-sharer. It is matter of record that Sham Lal had earlier filed a suit for partition but withdrawn and later on revenue record was corrected.

Mr. Manoj Kumar, learned counsel appearing on behalf of the appellant has been very fair to this Court in informing that after the decisions rendered by the lower Appellate Court, Sham Lal appellant has filed the suit for partition and interim injunction has been granted. The import of the judgments and decrees of the courts below is that injunction against the co-owner in the absence of partition cannot be granted. The modification by the lower Appellate Court in the judgment and decree of the trial Court is about reflecting

position of the co-sharer, which does not take away title of Sham Lal.

In view of the aforementioned observations, the finding of fact and law arrived at by the Courts below cannot be faulted with, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out.

Resultantly, all the appeals are dismissed.

(AMIT RAWAL)
JUDGE

December 06, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No