

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

RSA No.734 of 2018 (O&M)

Date of decision : 05.02.2018

Rameshwar Singh and others

...Appellants

Versus

Narender Yadav and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Jhanji, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

CM No.1824-C of 2018

For the reasons stated in the application, which is duly supported by an affidavit, application is allowed.

Main Case

The defendants-appellants are in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

The plaintiffs had filed a suit for partition, rendition of the accounts and permanent injunction restraining the defendants from interfering in their possession.

The defendants contested the suit and pleaded that in fact father of the plaintiffs had transferred all his rights in the disputed land through oral sale for total sale consideration of ₹19,700/-.

The trial Court after appreciating the evidence available on the

file, decreed the suit after recording a finding that the oral sale of the land is not permissible and as per the jamabandi for the year 2001-02, the father of the plaintiff was owner to the extent of 1/8th share.

The first appeal preferred before the learned Additional District Judge, was also dismissed after re-appreciating the evidence available on the file.

I have heard the learned counsel for the appellants at length and with his able assistance gone through the documents filed and the judgments of the Courts below.

Learned counsel for the appellants has referred to the statement of the plaintiff who appeared as PW1. Learned counsel by reading one line in isolation has submitted that since the plaintiff has admitted that the parties have constructed their respective houses, therefore, partition must be inferred.

He has further submitted that in fact the parties had settled their disputes but the plaintiff, who has come back to the village, is creating trouble.

As regards the first argument of the learned counsel, it is suffice to notice that one line in the cross-examination cannot be read in isolation of the entire statement. Complete statement of a witness has to be read to arrive at a conclusion. Here is a case where as per the revenue record, the property is joint between the parties. It is also undisputed that the plaintiff is recorded as co-owner in the property in dispute as per revenue record. Hence, is entitled to his share in the property by way of partition. As far as existence of the residential houses are concerned, this question shall

be considered by the Court while passing the final decree.

In view thereof, there is no scope for interference with the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

05.02.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No