

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

RSA No.4024 of 2019 (O&M)

Date of Decision.29.11.2019

Bhupinder Pal Singh Jolly @ Tinny and others

...Appellants

Vs

Commander Amarjit Singh Jolly

...Respondent

Present: Mr. Gitish Bhardwaj, Advocate
for the appellant.

Mr. M.L. Saggar, Senior Advocate with
Mr. Rohit Joshi, Advocate
for the respondent.

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

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JAISHREE THAKUR J. (ORAL)

With the consent of both the parties, hearing of the appeal is preponed and the matter is taken up for hearing today itself.

This is a regular second appeal, that has been filed by the appellants-defendants seeking to challenge the order passed by the Civil Judge (Junior Division), Ludhiana where in a suit for partition, final decree was passed on 25.04.2018 in terms of preliminary decree, which decree was challenged in appeal and subsequently, dismissed on 26.03.2019.

The appellants challenging the preliminary decree and the final decree approached this Court by filing present regular second appeal, *inter alia*, taking the ground that the said property could not be partitioned, apart from raising other pleas therein.

This Court was of the opinion that parties to the litigation were closely related; three siblings on one side and one brother on the other and on this basis, tried to effect a reconciliation between them. Pursuant to proceedings in Court, the parties themselves have agreed upon the mode of partition wherein it has been decided that the house situated on the said plot

would eventually be demolished and out of vacant plot, an area of 8' 4" in the front x 70' in length towards the back would be handed over to the plaintiff-respondent herein. The terms of the settlement arrived at between the parties have been incorporated in the affidavit as furnished in Court by Sh. Manik Jolly, who is the son of appellant No.3 and has been handling and appearing in the proceedings before this Court. The affidavit clearly stipulates that the appellants will abide by the decree dated 25.04.2018 and allot 1/6th share out of 388 sq. yards to plaintiff-respondent on which the plot is comprised of, while further submitting that as of 01.12.2019 to 31.05.2019, the appellants would pay rent of ₹25,000/- per month to the plaintiff-respondent. The affidavit along with the addition to paragraph 5 duly initialled is taken on record as Mark A. A copy of the said affidavit/undertaking has been handed over to both the counsel for the parties.

Therefore, since the matter stands compromised, the regular second appeal is disposed of in terms as mentioned in the affidavit Mark A. In the meantime, proceedings before the Executing Court are stayed and would be revived by the parties, should the need arise and in case decree stands satisfied, execution petition shall stand withdrawn. While disposing of this matter, it is also made clear that the wall that would be constructed by the appellants would be treated as a common wall, to be used in the ratio of 50:50.

The misc. applications filed by the parties also stand disposed of.

(JAISHREE THAKUR)
JUDGE

November 29, 2019

Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No