

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

RSA No.1992 of 2016 (O&M)

Date of decision:18.3.2019

Naresh Kumar

... Appellant(s)

Vs.

Lakshmi Devi (since deceased) through LRs and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R.S.Chauhan, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The only argument which Mr. R.S.Chauhan, Advocate has raised in assailing the judgments and decrees of the Courts below whereby claim of the appellant-plaintiff regarding the share, has been dismissed by the trial Court and affirmed in appeal on the premise that there was an embargo to female to claim partition in respect of dwelling house as per the provisions of Section 23 of Hindu Succession Act as Kundan Lal, father of the parties to the lis, died before 2005.

I am afraid the aforementioned argument is not sustainable for the simple reason that Kundan Lal died intestate and had one daughter and one son. As per the natural succession i.e. provisions of Section 8, the property was mutated in the name of the appellant-plaintiff and defendants in equal share. Even half share can always be sold and the status of the transferee/vendor would be of co-sharer. The embargo is only with regard to

claiming partition and not inheritance.

The appeal is also accompanied by an application seeking condonation of delay of 112 days in filing the appeal. The explanation given in the application is bereft of the reasons.

As an upshot of my findings, arguments of Mr. Chauhan have not been able to bring the case within the realm of illegality and perversity to form a different opinion than the one arrived at by the Courts below. No substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed on account of delay as well as on merits.

(AMIT RAWAL)
JUDGE

March 18, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No