

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1531 of 2015(O&M)
Date of Decision:09.05.2019

Rajesh Kumar

.....APPELLANT

Vs.

Ashok Kumar and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DR. RAVI RANJAN

Present: Mr.Vishal Sodhi, Advocate for the appellant.

Mr.Ashok Kumar Arora, Advocate
for respondent No.1.

DR. RAVI RANJAN, J.(Oral Judgment)

Heard learned counsel for the parties.

This appeal has been preferred by the defendant-appellant assailing the Judgment and Decree dated 06.09.2013 passed in Civil Suit No.532 by Addl. Civil Judge (Senior Division), Amritsar, by which the suit filed by respondent No.1 for possession by way of partition by metes and bounds of the suit property described in the plaint was decreed as well as Judgment and Decree dated 27.10.2014 passed in CA No.27462/18904/23956 of 2013 by Ld. Addl. District Judge, Amritsar, by which he has dismissed the appeal preferred under Section 96 of the Code of Civil Procedure against the aforesaid Judgment and Decree dated 06.09.2013.

Respondents No. 2 and 3 did not appear before the Trial Court. As a result of which, the suit has proceeded *ex parte* against them.

In the First Appeal also, service of respondents No. 2 and 3 was dispensed with.

In the present appeal also, though the notices were issued to respondents No. 2 and 3 and it was received by respondents No.2 but could not be served upon respondent No.3 due to lack of present and correct address. Accordingly, the orders were passed to that effect by this Court directing the appellant to furnish present and correct address of respondent No.3. Later on respondent No.3-Shardha has appeared in person before this Court which would be apparent from the order dated 07.02.2019, however, respondent No.2 made no representation.

Vide order dated 07.02.2019, a Coordinate Bench of this Court had referred the matter to the Mediation and Conciliation Centre of this Court on the assertion of respondent No.1 that there was some possibility of settlement in the matter.

Upon such reference, Mediation Case No.408 of 2017 was registered before the Mediation Centre in which notice was issued to respondent No.2-Smt. Usha, as she did not appear in the 1st Appeal. It appears from the order dated 05.04.2019 passed in the aforesaid Mediation Case that respondent No.2 has refused to accept the notice. However, mediation proceeding was continued even in her absence. It apparent from the records that the respondent No.2 neither appeared before the Trial Court nor before the First Appellate Court nor has made appearance in the present appeal or in the mediation proceedings.

However, in the order of settlement/agreement dated 10.05.2017 passed in concerned medication case before the Mediation Centre, a document, i.e., affidavit of respondent No.2-Usha, has been placed on record in which she

has stated that she has relinquished her share in the property No.118, Krishna Square situated on Khasra No.2022 min and 2025 min measuring 103.33 Sq. Yards in favour of her brother Rajesh Kumar who is the appellant in this case.

The matter has been settled between the parties as per the terms and conditions mentioned in paragraph No.8 of the settlement/agreement dated 10.05.2017 reflected in concerned medication case before the Mediation Centre.

In above view of the matter, since the parties have reached to the settlement, the present appeal stands disposed of accordingly. Mediation report containing the terms of agreement between the parties has been placed on record as Flag-A. The same would form part of the decree. In the result, the Judgments and Decrees passed by the Trial Court as well as the Appellate Court stand set aside.

(DR. RAVI RANJAN)
JUDGE

09.05.2019
Anjal

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