

RSA-4799-2017 (O&M)

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

RSA-4799-2017 (O&M)

Date of decision : 11.02.2019

Joginder Singh

... Appellant

Versus

Kishan Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. M.S. Longia, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

On receipt of the partition application filed by the defendants, the plaintiff has chosen to file the suit for declaration of having acquired the title by virtue of the photocopy of family settlement dated 15.12.2009 (Ex.PX), but the revenue record revealed the jointness of the entire property, for which, declaration was sought. The partition proceedings owing to the pendency of the suit, were adjourned *sine die*. Once the revenue record did not reflect any partition by metes and bounds, moving out by one of the defendants and staying in one of the properties, cannot lead to an irresistible conclusion that there was an implied or consensual partition as all the co-sharers have the share in each and every inch of land except through partition. It is not a case of ouster. In such circumstances, the Courts below had no other occasion, but to dismiss the suit for declaration.

As an upshot of my finding, I do not subscribe to the

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submissions of Mr. Longia, to form a different opinion than the one already arrived at by the Court below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

In view of the fact that the partition proceedings have been adjourned *sine die*, the parties shall be at liberty to seek the revival of the aforementioned partition proceedings.

11.02.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**