

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

**RSA No.5383 of 2019 (O&M)
Date of Decision : 05.12.2019**

Kulwant Rai

..... Appellant

Versus

Jagan Nath and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Vaneet Garg, Advocate
for the appellant.

SUDIP AHLUWALIA, J. (ORAL)

This is a case of dismissal of the Appellant's Suit for partition of his 1/14th share in the disputed property, which was dismissed by the Ld. Trial Court, basically on the ground that partial partition could not be allowed. The appeal preferred by the Appellant was also dismissed.

2. On perusal of the material available on record, it is seen that the case of the Appellant was that his father had acquired half portion of the disputed property, which has been described in para No.1 of the impugned judgment of the Ld. Trial Court dated 03.10.2017.

3. The Appellant had impleaded his brothers and other legal heirs of his deceased father in his Suit for Partition claiming that his father was survived by seven (07) legal representatives, including himself, but at the time of filing the Suit, some of his brothers and also his widowed mother had passed away, on account of which, the total number of defendants by virtue of impleadment of legal representatives of the deceased, at that stage, had increased to ten(10). He, however, did not implead the co-owners in respect of the remaining half portion of the Suit

Property, on account of which, the Suit was rightly dismissed by the Ld. Court below.

4. This Court, therefore, finds no justification to interfere with either of the impugned judgments. The appropriate remedy in such circumstances, apparently could have been a fresh Suit for Partition in which, all the co-owners needed to have been impleaded and not the Second appeal in this regard as has been chosen by the Appellant.

5. In view of the aforesaid observations, this Court, thus, finds no merit in the present appeal and the same, therefore, stands dismissed.

(SUDIP AHLUWALIA)
JUDGE

December 05, 2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No