

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

RSA No. 4705 of 2018(O&M)

Date of decision: 13.2.2019

Sohan Singh

.....Appellant

VERSUS

Kesar Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Munish Gupta, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

The unsuccessful defendant is in appeal to assail the concurrent findings recorded by the Courts whereby suit for partition of 1/12th share of the respondent/plaintiff of site marked as ABCDEFGHIJKLMN shown red in colour in the site plan measuring 19 kanal 14 marlas, detailed in head-note of the plaint was decreed by the trial Court vide judgment and decree dated 22.03.2013 that came to be affirmed in appeal by the Additional District Judge, Hoshiarpur on 01.05.2018.

The sole submission made by counsel for the appellant is that the appellant produced site plans of four more properties situated within abadi area of the village before the trial Court by contending that the same are jointly owned by the parties, thus, suit for partial partition is not maintainable but the Courts have seriously erred and committed gross illegality by rejecting this plea of the defendant/appellant.

Counsel for the appellant, in response to a query, would fairly inform that except producing site plans of four more properties, stated to

be jointly owned by the parties, no documentary evidence was adduced with regard to those properties being jointly owned by parties to the lis. However, counsel would state that if those properties were not jointly owned by the parties, there was no reason for the appellant to raise such a contention that would amount to creating a right in favour of the respondent/plaintiff in those properties as well. Since the appellant failed to establish that any other property besides the property in question is joint ownership of the parties that requires to be partitioned along with the suit property, no error much less perversity can be noticed in the consistent findings recorded by the Courts that would call for intervention. Analyzed from another angle, if the respondent/plaintiff was actually entitle to a share in other properties, he would not have put himself in a legal difficulty by not adding those properties in the present suit as he may not be entitle to file another suit claiming partition of other properties, if any, jointly owned by the parties.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine.

FEBRUARY 13, 2019

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no