

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

RSA No.5365 of 2018(O&M)
Date of decision: 01.10.2019

Rakam Chand and others

... Appellants

Versus

Chand Ram and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Divay Sarup, Advocate for the appellants.

ARUN PALLI, J. (Oral)

Suit filed by the appellants/plaintiffs was dismissed by the trial Court vide judgment and decree dated 22.02.2017. And as even the appeal preferred against the said decree failed and was dismissed by the appellate Court on 16.04.2018, they are before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiffs prayed for a decree for separate possession by way of partition of a suit property comprised in specific khasra numbers, as set out in the case title of the plaint, situated at village Kheri Gujran, Tehsil and District Patiala.

In brief, the case set out by the plaintiffs was that suit property was jointly owned by the parties and, thus, they were co-sharers in a joint khata, for it had yet not been partitioned. The plaintiffs being co-sharers in the suit land were entitled to separate possession, thus, the suit.

In defence, defendant No.1 pleaded, *inter alia*, that the plaintiffs had no right, title or interest in the suit land, for the joint land between the parties already stood partitioned and, therefore, the suit was liable to be dismissed.

Upon consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that none other than plaintiff Rakam Chand (PW1) conceded in a statement that the joint khata had since been partitioned amongst the children of Hari Ram. Further, a land measuring 1000 sq. yards that had fallen to his share was sold by him exclusively at village Uddhan. Still further, his father had relinquished his share in the property at village Kheri Gujran. That being so, the plaintiffs could not claim any right, title or interest in the suit property that was situated at village Kheri Gujran.

On being pointedly asked, learned counsel for the appellants could not refer to anything on record to show if the conclusions arrived at by both the Courts were either contrary to the record or suffered from any material illegality. Thus, no ground is made out to interfere with the concurrent findings recorded by both the Courts.

The appeal being devoid of merit is accordingly dismissed.

(Arun Palli)
Judge

01.10.2019
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO