

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 1919 of 2012 (O&M)

Date of Decision: 26.02.2020

Ram Partap (deceased) through his legal representatives and Others

... Appellant(s)

Versus

Jamuna Devi and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Ms. Kamalpreet, Advocate
for the appellants.

Mr. S.K.Arya, Advocate
for the respondents.

Anil Kshetarpal, J.

The plaintiff/appellants have filed the present regular second appeal challenging the correctness of the judgment passed by the learned first Appellate Court declining to grant decree for permanent injunction restraining the defendants from constructing over specific portion of the joint property and for alienating/transferring any specific portion.

The plaintiffs have claimed that the property is joint between the parties, whereas the defendants have taken a stand that the suit property stands already partitioned.

The learned first Appellate Court, on appreciation of evidence, has found that the plaintiffs have already constructed the house over two marlas land comprised in khasra No. 164.

It has further been found that the plaintiffs have also sold the

specific portion in the year 2006 and the construction of the house is ten

years old.

This Court has heard learned counsel for the parties at length and with their able assistance, gone through the judgments passed by the Courts below.

Learned counsel for the appellants submitted that the parties are co-sharers and therefore, the learned first Appellate Court has erred in passing the impugned judgment. She further submitted that construction over two marlas land is in the shape of Samadh and not house.

This Court has considered the submissions of learned counsel for the appellants. At the best, the case of the plaintiffs is that they are co-sharers in the joint land so the remedy for the plaintiffs is to seek partition. At this stage, it would not be appropriate for the Court to injunct the defendants from raising construction or from alienating any specific portion of the property. As and when any suit for partition is filed, the same shall be decided by the Court independently and any construction on the joint property by the defendants would not affect the rights of the parties in the partition proceedings, if any, filed.

Disposed of.

(Anil Kshetarpal)
Judge

February 26, 2020
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No