

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

RSA No. 4298 of 2018(O&M)

Date of decision: 21.1.2020

Mukhi and another

.....Appellants

VERSUS

Pinki @ Kavita

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. B.S. Tewatia, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for possession by way of partition and permanent injunction was decreed to the effect that a preliminary decree for possession by way of partition in respect of 4/7th share of plaintiff is passed and defendants are restrained from raising construction over valuable portion of the suit property more than their share till final partition, vide decree and judgment dated 31.07.2015 that came to be affirmed in appeal by the Additional District Judge, Palwal.

The sole submission made by counsel for the appellants is that in view of oral partition between the co-owners, the property in dispute measuring 7 marlas comprising khasra No.302 (0-6) and 508 (0-1) situated within the revenue estate of village Gehlab, Tehsil Hathin, District Palwal

had already been partitioned, therefore, the respondent/plaintiff was not entitle to seek partition thereof for the second time.

Perusal of allegations raised in the written statement, noticed briefly in para 2 of the judgment of trial Court, reveals that appellants/defendants raised the plea that they are owners in possession as co-sharers in the suit land and mutation No.7308 had been sanctioned in their names.

Counsel for the appellants, in response to a query, would fairly inform that said mutation No.7308 does not pertain to any oral partition between the co-owners. He has also failed to point out any materials on record that escaped notice of the Courts while negating plea of the appellants that there was oral partition between the parties. Counsel has also not disputed that respondent/plaintiff is recorded to be one of the co-sharers in the suit land to the extent of 4/7th share. That being so, there is no ground to interfere in concurrent findings recorded by the Courts.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine.

JANUARY 21, 2020

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no