

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

163

**RSA-861-2022(O&M)
Date of Order: 22.04.2022**

KRISHNA DEVI AND OTHERS

..Appellants

Versus

BALWAN SINGH AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anshumaan Dalal, Advocate
for the appellants.

ANIL KSHETARPAL, J(Oral)

While assailing the concurrent findings of fact arrived at the Courts below, the defendants have filed the present Regular Second Appeal. The plaintiff's suit for grant of decree of partition has been decreed by the Courts below. The plaintiff claims that he along with his four other brothers purchased the property on 06.09.1995. Two brothers out of five, transferred the property in favour of the plaintiff. Thus, the plaintiff claims that he is entitled to 3/5th share. The defendants contested the suit alleging that there was no sale deed. They further asserted that the father of defendant No.2 and 3 exchanged 8 square yards and Krishan one of the brothers thereafter, transferred the property in favour of the father of defendant No.2 and 3 and husband of defendant No.1. Thus, the defendants further claim that the suit property has already been partitioned on the basis of family settlement in the year 1995. Both the Courts on appreciation of evidence have found that the plaintiff has successfully proved his case and he is entitled to 120 square yards. It was found that the defendants failed to prove either family settlement or *inter se* exchange or transfer.

This Bench has heard the learned counsel representing the appellants at length and with his able assistance perused the paperbook.

The learned counsel representing the appellants contend that both the Courts have erred in appreciation of evidence. He submits that the defendants in order to prove their case examined various witnesses and produced a copy of the affidavit of Sh. Krishan, one of the brothers.

The scope of interference in Regular Second Appeal is limited. Both the Courts have recorded a finding of fact on appreciation of evidence. The alleged family settlement has not been proved. Each brother was owner of 1/5th share. The plaintiff has proved that two brothers vide registered transfer deed dated 24.06.2016 and 26.11.2014, transferred their share in his favour. The defendants failed to produce any transfer deed.

Keeping in view the aforesaid facts, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

April 22nd, 2022

Ay

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*