

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

CR-5864-2019 (O&M)

Date of decision: 17.05.2022

Moli Chand and others

...Petitioners

Versus

Jitender Kumar and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Hitesh Malik, Advocate for the petitioners

Mr. Sanjiv Gupta, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

While preparing the final decree in a suit for partition, an application filed by the defendant no. 1 to 3 under Section 4 of the Partition Act, 1893 (hereinafter referred to as 'the 1893 Act'), has been dismissed. Section 4 (1) of the 1893 Act enables a member of an undivided family to purchase the share of a person, who is not a member of such family. The trial court has found that Smt. Anari Devi and Raj Kumar purchased half share each vide separate sale deeds. Raj Kumar subsequently sold his share in favour of the respondents. At particular time when Anari Devi and Raj Kumar purchased the property separately and there is no specific evidence to prove that it is only a dwelling house of undivided family, the applicability of Section 4 of the 1893 Act is not made out. It may be noted here that the property consists of shops on the ground floor and residence on the ground floor as well as on the first

floor. Hence, no ground to interfere is made out.

Dismissed.

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

17.05.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE