

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

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**RSA No.2738-2013(O & M)
Date of Decision : 22.04.2022**

Inder Pehlada and others

...appellants

Versus

Tej Singh (deceased) th.LRs and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr.Vikram Punia, Advocate
for the appellants

Mr.S.S.Dinarpur, Advocate
for the respondents

ANIL KSHETARPAL, J (ORAL)

While assailing the concurrent findings of fact arrived at by the courts below, the plaintiffs have filed the present appeal.

In fact, in a suit for possession by way of partition, the preliminary decree for partition was passed on 03.11.1988. In an application for passing the final decree, a local commissioner was appointed in order to know the actual position. A final decree was drawn as per the report of the local commissioner. An appeal filed against the final decree dated 17.05.1997 was allowed and case was remitted back for deciding the matter afresh. Subsequently, the trial Court after hearing the objections passed the final decree. Appeal filed by the appellant was also dismissed. That is how this regular second appeal has been filed.

As regards the entitlement of the respective shares between the co-owners, the preliminary decree has become final.

Heard learned counsel representing the parties and with their able assistance perused the paper book and the record which was requisitioned.

Learned counsel representing the appellants contends that as per the preliminary decree, the partition was to take place as per the ***Hasab Rasad Khewat*** (as per the area), whereas the Court has ordered the partition on the basis of ***Hasab Zar Khewat*** (on the basis of valuation of the joint land). He contends that such partition is not sustainable.

Per contra, learned counsel representing the respondents has submitted that when the local commissioner visited the area in order to demarcate and suggest ways to partition the land, the appellants never raised any objections. It is a reasonable approach to divide the property according to its value, it is just and fair.

This Court has considered the submissions.

On a Court question, learned counsel representing the appellants failed to draw the attention of the Court to any prejudice caused to the appellants. The preliminary decree was passed way back on 03.11.1988. 34 years have passed. The situation on the ground has undergone a lot of change. Since the appellants have failed to draw the attention of the Court to any prejudice caused, therefore, this Court after a period of more than 3 decades, does not find it appropriate to interfere particularly when the partition has been carried out with a view to ensure that everyone gets equal treatment.

Dismissed.

22.04.2022

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(ANIL KSHETARPAL)
JUDGE

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