

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

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**RSA-129-2023 (O&M)**

Date of decision : 17.01.2023

Sohan Singh (now deceased) through his LR Jagjit Singh

... Appellant

Versus

Mohan Singh and others

.. Respondents

**CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present:- Mr. Ram Kumar Chauhan, Advocate for the appellant.

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**Anupinder Singh Grewal, J. (Oral)**

**CM-425-C-2023**

This is an application seeking condonation of delay of 886 days in filing the appeal.

Heard. For the reasons stated in the application, the same is allowed and delay of 886 days in filing the appeal is condoned.

**Main case**

The appellant/defendant has challenged the findings of the Courts below whereby the suit of the respondents for partition of the suit land has been decreed and the appeal thereagainst has been dismissed.

Learned counsel for the appellant has submitted that as a part of the suit land comprising khasra Nos.880 and 814 were not included in the suit property, the suit was liable to be dismissed on account of partial partition. He also submits that the partition had already been effected between the parties on 01.08.1991 which had been pleaded and proved on record by the appellant and therefore, the suit ought not to have been decreed.

Heard.

The father of the appellant and the respondents are brothers and co-sharers of the suit property. The suit had been preferred by two brothers

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(respondents No.1 and 2 herein) seeking separate possession of 2/5<sup>th</sup> share (1/5<sup>th</sup> share each) by way of partition. They along with three other siblings had inherited the property in equal shares after the demise of their father.

It is apparent that the suit property is ancestral in nature and had been inherited by the parties from their father. I do not accept the argument of the counsel for the appellant that the partial partition had taken place for the reason the appellant had admitted that he had sold his share from khasra No.814 and that he had given his share from khasra No.880 to Gurudwara Sahib.

PW-3 Gurmail Singh, in his cross-examination, had admitted that the parties were in possession of the suit property in khasra Nos.880 and 814 as per their share, therefore, the parties had admitted that they had sold their respective share in these khasra numbers.

I also do not accept the contention of the counsel for the appellant that partition dated 01.08.1991 had already been entered between the parties and they were in possession of their respective share for the reason that this partition had not been proved on record. Neither the partition deed nor any revenue record in support of the partition effected on 01.08.1991 had been proved. Therefore, I do not find any infirmity in the findings of the Courts below decreeing the suit for partition in equal share to the brothers in terms of the inheritance.

Consequently, the appeal stands dismissed.

Pending application(s), if any, shall also stand disposed of accordingly.

(ANUPINDER SINGH GREWAL)  
JUDGE

January 17, 2023  
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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |