

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CM Nos.801-802-CII of 2023 in/and
RSA No.229 of 2023 (O&M)
Date of Decision: 27.01.2023

Bachan Singh and others

....Appellants

Versus

Parbhu and others

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashwani Bakshi, Advocate
for the appellants.

Harsimran Singh Sethi, J. (Oral)

CM No.801 of 2023

Application is allowed as prayed for.

Documents are taken on record.

CM No.802 of 2023 in/and
RSA No.229 of 2023(O&M)

In the present Regular Second Appeal, the challenge is to the order passed by the trial Court dated 20.08.2016, by which, the suit filed by the respondents-plaintiffs for the partition has been allowed and the said judgment and decree passed by the trial Court has been further upheld by the lower Appellate Court vide order dated 25/29.11.2022.

It may be noticed that the suit was filed by the respondents for partition of the land, which partition has been allowed after seeking the opinion of the Local Commissioner. The land has been partitioned in a manner admissible, though the same was not to the liking of the first set

of defendants in the Civil Suit. The order passed by the trial Court by which the partition was allowed dated 20.08.2016 was assailed before the lower Appellate Court, which challenge has been declined resulting in the present Regular Second Appeal.

Learned counsel appearing on behalf of the appellants submits that the Court has directed the partition of the land without appreciating the fact that there was a rasta in the said land which rasta has been apportioned in equal shares, even through the land falling in rasta was being possessed by a particular party. The said argument is totally frivolous. Once, there is a rasta on the land to be partitioned, the said rasta has to be apportioned equally amongst the share holders, which has been rightly done by the Courts below while passing the order in the Civil Suit seeking apportion. The argument that rasta was liable to be accounted in the land of the plaintiffs only as the defendants were already holding their share of possession, cannot be accepted.

Further argument of the learned counsel for the appellants is that all the co-sharers have not been given their rightful share in the partition, which has been done on the basis of the recommendation of the Local Commissioner. Learned counsel has not been able to point out the fact that the appellants are in any manner prejudice qua their share in the land which has been partitioned. Appellants are to stand on their own legs rather than pleading prejudice to the others to challenge the validity of an order. In the absence of any prejudice to the appellants herein, the arguments regarding suffering a prejudice being raised, cannot be accepted keeping in view the concurrent findings of the Courts below.

No further argument has been raised by the learned counsel

for the appellants.

Keeping in view the fact that no perversity in the order has been pointed qua the order or the facts which have come on record, no interference is called for by this Court in the present Regular Second Appeal.

Appeal stands dismissed.

January 27, 2023
jt

(HARSIMRAN SINGH SETHI)
JUDGE

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