



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SAO-25-2024 (O&M)
Date of Order:27.05.2024

SAJJAN SINGH AND ANOTHER

.Appellants

Versus

SUKHDEV SINGH AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S.Salana, Advocate
for the appellants.

ANIL KSHETARPAL, J

1. This second appeal against the First Appellate Court's order remitting the case back to the trial court has been filed by the plaintiffs. The dispute is with regard to the properties left behind by Sh. Kartar Singh, who was predecessor-in-interest of all the parties to this litigation.

2. One son and a daughter of Sh. Kartar Singh are the plaintiffs, whereas another son and two daughters of Sh. Kartar Singh are defendants. The plaintiffs filed a suit for separate possession by way of partition of properties No. I and II with a consequential relief of permanent injunction.

3. The trial court passed a preliminary decree of partition. Before the First Appellate Court, an application under Order 1 Rule 10 CPC was filed which was allowed. It came on the record that Sh. Kartar Singh allegedly executed a Will dated 16.02.2011, bequeathing one of the properties out of two residential properties included in the suit was bequeathed in favour of Sh. Jasbir Singh son of Sh. Sukhdev Singh. The First Appellate Court found that the beneficiary of the Will has not been



impleaded as a party in the suit. Thus, the First Appellate Court remitted the matter back to the trial Court for a fresh decision.

4. The correctness of such order is challenged in this appeal.
5. The learned counsel representing the appellants contends that Sh. Jasbir Singh's father is a party to the suit and he had made assertions with regard to the Will dated 16.02.2011, however, failed to prove the same. He submits that there is no necessity to remit the matter back to the trial court.
6. This court has considered the submissions of the learned counsel representing the appellants.
7. In substance, the plaintiffs are seeking partition of the property which is alleged to have been bequeathed in favour of Sh. Jasbir Singh. In his absence, it would not be appropriate to decide a suit for partition of the property. Sh. Jasbir Singh is a necessary as well as a proper party. He was required to be impleaded in the suit. Hence, the First Appellate Court has not erred in remitting the matter back to the trial court for fresh decision and after allowing Sh. Jasbir Singh to become defendant in the suit.
8. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.
9. Dismissed.
10. All the pending miscellaneous applications, if any, are also disposed of.

May 27, 2024
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Whether reportable

:YES/NO

:YES/NO