



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.984 of 2001 (O&M)

Date of Order:19.02.2025

Mukhtiar Singh

.Appellant

Versus

Sohan Singh

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sarabjeet Khaira, Advocate, for the appellant.
Mr. S.S.Siao, Advocate, for the respondents.

ANIL KSHETARPAL, JUDGE (Oral)

1. The defendant assails the correctness of the concurrent findings of fact arrived at by the courts below while decreeing the plaintiff's suit for possession of plot measuring 4½ marlas.
2. It has come on record that four brothers, Sh. Sohan Singh, Sh. Ujjagar Singh, Sh. Bhag Singh and Sh. Harbans Singh were joint owners of plot measuring 1 kanal and 18 marlas. It is the case of the plaintiff that in a family partition, all the four brothers divided the plot in four portions measuring 9½ marlas each. He claims that he has constructed a house in a portion of his plot, however, he left vacant some site which has been encroached by the defendant. The defendant is nephew of the plaintiff.
3. The defendant contested the suit on the ground that the property is part of a joint khata and there is no partition.
4. Upon appreciation of the evidence, both the courts have come to a conclusion that the property was in fact partitioned equally amongst four brothers and the plaintiff is entitled to 4½ marlas plot.



5. The learned counsel representing the appellant contends that without seeking partition of the joint property, the plaintiff's suit could not be decreed.

6. This court has considered the submission of the learned counsel representing the parties.

7. It is evident that all the four brothers have share of $9\frac{1}{2}$ marlas plot and there was partition with mutual consent. The plaintiff has sought possession of $4\frac{1}{2}$ marlas. Both the courts have believed the plaintiff's evidence.

8. In these circumstances, no ground to interfere with the concurrent findings of fact is made out.

9. Dismissed.

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

(ANIL KSHETARPAL)
JUDGE

February 19, 2025
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Whether speaking/reasoned : **Yes/No**
Whether reportable : **Yes/No**