

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

107

2025-PHHC-026110



RSA-390-2012

Date of decision: 24.02.2025

ANGOORI DEVI AND ANR

..Appellants

Versus

RAM CHANDER SAINI

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gulshan Nandwani, Advocate
for the appellants.

Mr. Vaneet Soni, Advocate
Mr. Gyan Parkash, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. The defendants have filed this regular second appeal against the preliminary decree for partition of the property passed between the co-sharers, which in appeal has been affirmed by the Appellate Authority.

2. Learned counsel for the appellants has made the following two submissions:-

- i. The suit property is 100 sq. yards and not 150 sq. yards.
- ii. The suit is bad for partial partition as the plaintiff has not included other two joint properties.

3. This Court has considered the submissions of learned counsel for the appellants.

4. The operative part of the trial Court's preliminary decree reads as under:-

“42. In sequel to my findings on the aforesaid issues the plaintiff succeeds and his suit is hereby decreed. A preliminary decree is passed whereby the plaintiff is held to be owner to the extent of 2/3 share and defendants are held to be owner to the extent of 1/6 share each in the suit

property. The plaintiff is entitled for possession in accordance with his share. There is no order as to costs. Preliminary decree be prepared. File be consigned to the record room.”

- 5. It is evident that the Court has only determined the respective shares of the co-sharers. Whether the joint property is 100 sq. yard or 150 sq. yard shall be considered by the Court while preparing the final decree.
- 6. With regard to second submission, it may be noted that the defendants have not led any evidence to prove the aforesaid contention.
- 7. In any case, the defendants can file suit for partition of the properties, if permissible, in law.
- 8. No prejudice is caused to the defendants, hence, no ground to interfere is made out.
- 9. Dismissed accordingly.

February 24th, 2025
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(ANIL KSHETARPAL)
JUDGE

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