



In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 3481 of 2018 (O&M)

Date of Decision: 06.03.2025

Sunil Narula

... Appellant(s)

Versus

Smt. Shelly Juneja and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. V.K.Sandhir, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. The defendant No.2 assails the correctness of the concurrent findings of facts arrived at by both the Courts below while partly decreeing the plaintiff's suit.

3. The plaintiff, namely Shelly Juneja, being a daughter of late Sh.Brij Lal Narula, claimed 1/4th share in the suit properties as her father had died intestate on 02.12.2008. The defendants contested the suit claiming that she has no concern with the suit properties. It was also claimed that the house was purchased jointly by late Sh.Brij Lal Narula and Smt. Parveen Narula (defendant No.1). The Trial Court, therefore, passed a decree qua

This judgment has been affirmed in appeal by the First Appellate Court.

4. Upon realizing that there is no merit in the appeal, the learned counsel representing the appellant submits that the total area of the house is nearly 200 square yards. It will not be physically possible to divide the property by metes and bounds. He further submits that the appellants are prepared to pay her the price of her share

5. This Court has considered the submissions of the learned counsel representing the appellant.

6. The application for final partition is yet to be filed by the plaintiff. At that stage, the appellant will have an opportunity to make the aforesaid request. The appellant's counsel has failed to draw the attention of this Court to any substantive error in the judgments. The plaintiff has already prayed for partition of the property apart from declaration. There is a small error in the judgments of both the Courts below which does not affect the merits. The judgments passed by both the Courts below will amount to a preliminary decree of partition.

7. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

8. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 06, 2025

"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No