



RSA-2170-2024(O&amp;M)

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

RSA-2170-2024(O&amp;M)

Date of decision:07.07.2025

Rakesh Kumar

..Appellant

Versus

Sushil Kumar and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Ramesh Hooda, Advocate for the appellant

**ANIL KSHETARPAL, J. (Oral)****CM-8824-C-2024**

1. For the reasons stated in the application, delay of 392 days in filing the appeal is hereby condoned.

2. CM stands allowed.

**Main case**

3. Defendant no.1 assails the correctness of the concurrent findings of fact arrived at by the courts below while decreeing the suit for separate possession by way of partition filed by the plaintiff with respect to a residential house. The defendants contested the suit on the ground that the suit property was already partitioned and was allotted to defendant no.1. The plaintiff is separately residing for more than 20 years and in order to compensate the plaintiff Daya



Ram, grandfather of the parties purchased and constructed a new house for the plaintiff in Village Nagal.

2. Both the courts upon appreciation of evidence came to the conclusion that the suit property is a joint property as per the Will dated 11.06.2001. Hence, it is required to be partitioned. Plot on which the house is constructed at Village Nagal was purchased by the plaintiff and there is no evidence to prove that house was constructed by the plaintiff after his withdrawal from the joint Hindu family funds.

3. Learned counsel representing the appellant contends that when the property was purchased at Village Nagal, the plaintiff was very young and hence, he could not have purchased the property from his funds.

4. This Court has considered the submissions made by the learned counsel representing the parties.

5. The plot at Village Nagal was purchased in the year 1992 whereas the partition between the parties is stated to have taken place in the year 1989. Hence, it is not established that respondent was given the house at Village Nagal in lieu of his share in the suit property. The appellant contested the partition application on the ground that the plot was purchased from the joint Hindu family funds, however, he failed to prove the same. He also failed to prove that the construction of the house at Village Nagal was also done from the joint Hindu family funds.

6. Keeping in view the aforesaid facts, no ground to interfere is made out.



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7. Hence, dismissed.

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

**(ANIL KSHETARPAL)**  
**JUDGE**

**07.07.2025**

rekha

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No