



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

235

**RSA-4060-2016 (O&M)
Date of decision : 25.08.2025**

Balbir Singh

..... Appellant

versus

Ganesh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Munish Gupta, Advocate
for the appellant.

Mr. R.K. Chauhan, Advocate
for respondent No.1.

None for respondents No.2(a) to 2(h), 3 to 8.

PANKAJ JAIN, J. (Oral)

1. The plaintiff is in appeal.
2. The plaintiff filed suit for separate possession by way of partition of joint properties. Suit was contested by defendants raising the plea of partial partition. Trial court decreed the suit filed by the plaintiff brushing aside the objections raised by defendants regarding partial partition. Appellate Court reversed the judgment and decree passed by the Trial Court, dismissed the suit filed by the plaintiff holding it to be bad for not having included all joint properties observing as under:-

“25. The above said admissions of the plaintiff in his cross examination takes away entire merit from the case of plaintiff. There is clear admission of existing of ancestral house in which the defendant is having share. From his clear admissions of the family partition as claimed by the defendant no. 1, the suit was definitely bad for non joining of all the properties belonging to the plaintiff and defendant no.1. So this court is of the considered opinion that in these circumstances, learned trial court was not justified in passing



preliminary decree which has resulted into partial partition of the joint properties interse plaintiff and defendant no.1, hence the said decree cannot be sustained. In view of the same the present appeal is allowed and the impugned judgment and decree is set aside thereby dismissing the suit of the plaintiff with costs. Decree sheet be prepared. Learned trial court record alongwith copy of this judgment be returned. Appeal file be consigned.”

3. Counsel for the appellant submits that the rule that all the properties need to be included in a suit for partition is not inelastic and the same is subject to just exceptions.

4. There cannot be any dispute with the proposition being canvassed by the counsel for the appellant that the rule of including all joint properties in a suit for partition is not absolute and is subject to exceptions. However, he is not in a position to dispute that admittedly there is an ancestral house which is situated within lal lakir and has been recorded as gair mumkin abadi. It is Civil Court only which would have jurisdiction to entertain plea with respect to partition thereof. In view of above, no fault can be found with the finding recorded by the Lower Appellate Court dismissing suit filed by the plaintiff being bad for partial partition.

5. Finding no merits in the present appeal, the same is ordered to be dismissed.

6. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

25.08.2025

Dinesh

Whether speaking/reasoned :

Yes

Whether Reportable :

No