



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

SAO-53-2019 (O&M)

Date of decision : 20.03.2025

Ram Nath and another

...Appellants

Vs.

Smt.Darshna Devi and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ravish Bansal, Advocate
Mr. Jitender Singla, Advocate
for the appellants.

Mr. Ashish Bansal, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (Oral)

1. Through this second appeal, the appellants assail the correctness of the First Appellate Court's order passed on 19.01.2019. The appellants' application for re-hearing of the first appeal has been dismissed.

2. Originally, the appellants, who are father and son, filed a suit for partition of the joint property, in which, preliminary decree for partition was passed on 07.05.2012.

3. The appellants filed an application for preparation of the final decree on 04.09.2012. The first appeal against the preliminary decree was filed by the defendants. The Court issued notice to the appellants. Initially, it was reported by the wife of appellant No. 2, that the appellants are away to Chandigarh for treatment. Subsequently, again notice was sent by the Appellate Court. This time employee of the appellants reported that they are away to



Chandigarh. Ultimately, the Court ordered publication of notice in the newspaper. However, the appellants did not appear. Hence, they were proceeded against *ex parte*. Ultimately the preliminary decree was reversed by the First Appellate Court while observing that the property has already been partitioned and separate buildings have been constructed by all the co-sharers.

4. On 21.03.2015, the appellants filed an application for re-hearing, which has been dismissed by the First Appellate Court.

5. Learned counsel representing the appellants submits that the appellants did not come to know of the pendency of the appeal because wife of Sh. Vinod Kumar s/o Sh. Ram Nath was suffering from cancer and treatment was going on in Chandigarh. He further submits that Sh. Ram Nath's wife was also ailing.

6. *Per contra*, learned counsel representing the respondents submits that in the proceedings for preparation of final decree Smt. Darshna Devi's counsel filed an application on 18.07.2014, for adjourning the proceedings *sine die* on account of pendency of the appeal and this application was filed in the presence of learned counsel representing the appellants in the application for preparation of final decree. He further submits that sufficient notices were given to the appellants by the First Appellate Court as repeated notices were issued spanning over a period from 08.06.2012 till 2014.

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

8. The appellants came to know of the pendency of the appeal on numerous occasions. Firstly, it was informed to the wife of appellant No. 2.



On second occasion, it was informed to the official of appellants. Thirdly, the notice was published in the newspaper. Lastly, the appellants' counsel came to know on 18.07.2014, whereas, the appeal was decided on 06.08.2014. The appellants never took any timely step in this regard.

9. Keeping in view the aforesaid facts, this Court does not find it appropriate to interfere.

10. Hence, the appeal is dismissed.

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

(ANIL KSHETARPAL)
JUDGE

20.03.2025

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No