

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

**CSA No. 12/2012
CMA Nos.16/2012 & 20/2012**

Date of Decision: **31.05.2012**

Mohan Lal & ors. v.

Balak Ram.

CORAM:

Mr. JUSTICE J. P. SINGH.

Appearing counsel:

For Petitioner(s) : Mr. O. P. Sharma, Advocate.

For Respondent(s) : Mr. S. M. Choudhary, Advocate.

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|----|--|---|---------------|
| i) | Whether approved for reporting
in Press/Journal/Media | : | Yes/No |
| i) | Whether to be reported
in Digest/Journal | : | Yes/No |
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ORDER

The Appellants-defendants have filed this Civil Second Appeal questioning the concurrent findings of fact recorded by the Trial Court of Sub-Judge (CJM), Samba and the First Appellate Court of Principal District Judge, Samba.

In terms of the Decrees and Judgments of the two Courts, the respondent-plaintiff was found in possession of four (4) kanals and fourteen (14) marls of land comprised in Khasra No. 186

situated at Village Rarian Tehsil Samba on the basis of the Family Settlement reached at in the year 2002. In recording the findings, the Courts below, *inter alia*, relied on the statement of appellant-Kali Dass who had admitted in his statement while under cross-examination that he and other co-sharers had got share of the property out of the land comprised in Khasra Nos. 94, 95, 96, 186, 300, 410, 402, 403 and 404. According to him, he had got two (2) kanals and seven (7) marlas of land out of Khasra No. 186 also. Relying on the reports of the Revenue Officers and other material on Records and appreciating the evidence of the parties, the two Courts found the respondent in possession of the land which had fallen to his share in the Family Settlement.

The Appellants question the findings of the two Courts on three questions which are stated as substantial questions of law. These questions, as reproduced in the Memo of Appeal, read thus:-

“a) Whether in the absence of confirmation/affirming the report of the patwari under the specific provisions of Land Revenue Act and Rules made thereunder can it become the basis and be treated as partition inter se the parties?

b) Whether the non-disclosure of the date and year with respect to Khangti partition can be taken into consideration which has not given effect in the revenue record nor the same has been acted upon by the parties?

c) Whether the ex parte report submitted by the patwari which are impressions and expression of the individual can become the basis for partition, that too when whole of the land forming part, application for partition before Agrarian Reforms

Tehsildar was stayed by the competent revenue authorities?"

Considered the submissions of learned counsel for the parties advanced at the Bar.

The concurrent findings of fact recorded by the Two Courts have been reached at after appreciating the evidence of the parties and taking into consideration one of the appellants' admission that there was a Family Settlement in which the appellants and other co-sharers got their share of the Estate. The appreciation of evidence is based on well settled principles of law.

The findings of the Courts are, therefore, well merited.

The issues projected by the Appellants to question the concurrent findings of facts recorded by the two Courts are in the realm of appreciation of evidence which does not give rise to any substantial question of law warranting admission of the Appeal to hearing.

This Civil Second Appeal is, therefore, found without substance, hence dismissed.

(J. P. Singh)
Judge

JAMMU:
31.05.2012
Sunita.