

02.08.2016

Present : Ms. Ranjana Chauhan, Advocate vice counsel for appellants  
Mr. S.K. Sood, Advocate for respondent No.1 & 3  
Respondent No.2 already ex-parte  
None on behalf of respondent No.4 despite service.  
Mr. Ankit Aggarwal, Advocate for respondent No.5

CMP No.1451/2016

Application filed under Order XXXIX Rules 1 & 2 read with Section 151 CPC. Learned Advocates appearing on behalf of non-applicants No. 1, 3 & 5 sought time for filing response. Granted. Response be filed within two weeks. Thereafter rejoinder if any be filed within one week. Thereafter be listed for consideration.

RSA No.80/2016

Heard. Preliminary hearing conducted upon admission. Records perused. After perusal of the record carefully Court is of the opinion that prima facie there are sufficient grounds for admission of present RSA as there is material dispute inter se parties qua facts and laws. Arguable points are also involved in the present RSA. Hence present RSA is **admitted** on following substantial questions of law:

1. Whether findings of the Court below are perverse, based on misreading of oral and documentary evidence as also pleadings of the parties and drawing wrong inferences from the facts proved on record, particularly, revenue records P-1 to P-11 to which presumption of truth was attached and Will Ext. DW-2/A and relinquishment deed Ext. DW-1/A?
2. Whether property was ancestral and coparcenary property and could be Willed by Gokul Devi and the

relinquishment statement have been wrongly ignored and misinterpreted ?

3. Whether Will Ext. DW-2/A was shrouded with suspicious circumstances and the execution thereof had been proved in accordance with Section 63 of the Hindu Succession Act?

4. Whether in view of fact that the appellants were admittedly co-sharers in possession of the property and decree for injunction granted by learned Trial Court against the defendants could be set aside till the land was partitioned?

Be listed for final hearing in due course.

2<sup>nd</sup> August, 2016  
(rana)

(P. S. Rana),  
Judge.