

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil First Appeal No. 189/2022

Navratan Choudhary Son Of Late Shri Heera Lal Choudhary

----Appellant

Versus

Smt. Achala Devi Choudhary Wife Of Late Shri Heera Lal Choudhary & Ors.

----Respondents

For Appellant(s) : Mr. Rajneesh Gupta

For Respondent(s) : Mr. R.K. Mathur, Sr. Advocate assisted
by Mr. V.K. Mathur
Ms. Arjita Singh

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

18/04/2022

Appellant-plaintiff has filed this first appeal feeling aggrieved by dismissal of his civil suit for partition by the Court of Additional District Judge No.2, Ajmer in Civil Suit No.62/2009 vide impugned judgment and decree dated 24.12.2021.

Learned counsel for appellant submits that agricultural land belongs to his grand-father and both havelis were jointly purchased by parties, hence, the appellant has a right to claim partition in the suit properties, however, the trial court has dismissed the suit.

Learned counsel for respondents has put in appearance as a caveator and submits that the appellant has no right to claim partition in the properties of his father. It is come on record that the father made arrangements of his properties through wills. Appellant himself admits the execution of the will by father, however, did not challenge the will. It has been urged that before

the trial Court, plaintiff admits that parties are having possession on their respective portion according to the document dated 19.05.2000. In that view, appellant's suit for partition was rightly dismissed.

Having heard learned counsel for both parties, this Court finds that the first appeal is required to be heard on facts and law.

Admit.

Issue notice to respondents.

Since respondent No.1 has already passed away and for respondent Nos.3 & 4 counsel has already put in appearance, no need to issue notices to them.

Issue notice to respondent No.2 only.

Call for the record.

Learned counsel for appellant prays that during pendency of this appeal, respondents shall restrain from alienating the suit properties. Since the first appeal is already admitted for hearing, it is directed that respondents shall not alienate the suit properties without seeking permission of this Court during pendency of this appeal.

With the aforesaid observations, stay application stands disposed of.

(SUDESH BANSAL),J