



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

131

RSA-1515-2023 (O&M)

Date of decision: 08.07.2026

Bala Devi and others

....Appellants

Versus

Pushpa Devi and others

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Sushil Kumar Verma, Advocate, for the appellants.

Mr. Armaan Gagneja, Advocate, for respondent No.3

HARSH BUNGER J. (ORAL)

1. For convenience, the parties herein are being addressed as per their status in the original suit.

2. This is the plaintiffs' second appeal challenging judgment and decree dated 22.03.2017 passed by the learned Civil Judge (Senior Division), Sirsa, whereby the suit filed by plaintiffs for declaration, has been dismissed.

2.1. A further challenge has been laid to the judgment and decree dated 03.12.2022 passed by the learned District Judge, Sirsa, whereby the appeal preferred by the plaintiffs against the aforesaid judgment and decree dated 22.03.2017 passed by the learned trial Court, has also been dismissed.

3. Briefly, the plaintiffs filed a suit for declaration to the effect that they are owners and in exclusive possession in equal shares of land



measuring 43 kanal 18 marla 1 sarsai (as detailed in plaint) situated within the revenue estate of village Jodhkan, Tehsil and District Sirsa (as per jamabandi for the year 2007-08) on the basis of an alleged family settlement. A further declaration was sought that the release deed dated 18.05.2012 executed by defendant No.3 (Roop Ram, since deceased) in favour of defendants No.1 and 2 in the suit, was wrong, illegal, unlawful and a result of collusion and connivance between the defendants and therefore ineffective and inoperative qua the rights of the plaintiffs over the suit land. A further prayer was made that Mutation No.6716 sanctioned on the basis of the released deed and the entries in the revenue records, are liable to be corrected by declaring the plaintiffs to be owners in possession of their share in the suit land.

4. The pleaded case of the plaintiffs was that plaintiff No.1-Bala Devi is the widow of Satish Gir and plaintiffs No.2 to 5 are the children of Shri Satish Gir. Satish Gir is son of Roop Ram (since deceased), whereas defendants No.1 and 2 in the suit are the daughters of Roop Ram. The plaintiffs' claimed that the suit land measuring 43 kanal 18 marla 1 sarsai was the ancestral coparcenary property of plaintiffs No.2 to 5 and of defendants No.1 and 2 as the same was inherited by defendant No.3-Roop Ram (since deceased) from his father. It was pleaded that the plaintiffs and defendants No.1 and 2 had pre-existing right in the suit land since the time of their birth, however, about 2 years ago, an oral family settlement took place between the parties, accordingly to which, defendants No.1 and 2 received amount of their share in cash and the suit land fell into the share of



the plaintiffs in equal shares, who are continuing in possession thereof. It is categoric case of the plaintiffs that the release deed dated 18.05.2012 executed by defendant No.3-Roop Ram (since deceased) in favour of defendants No.1 and 2 was illegal and a result of collusion and connivance between the defendants and therefore, liable to be set aside.

4.1. With the aforesaid submissions, the suit for declaration etc. was filed by the plaintiffs.

5. Upon issuance of notice, defendants in the suit appeared and contested the claim of the plaintiffs by filing their written statement, wherein it was categorically denied that the suit land was ancestral and coparcenary property. It was specifically stated that the suit land was the self-acquired property of defendant No.3 (Roop Ram) and that the plaintiffs had no interest in the suit land since their birth. It was further stated that no family settlement took place between the parties and therefore there was no question of receipt of any amount by defendants No.1 and 2. Even the possession of the plaintiffs over the suit land was denied. As regards the release deed, it was specifically stated by the defendants that the same was executed by defendant No.3 in favour of defendants No.1 and 2, which was valid and binding upon the plaintiffs. The defendants had taken a further categoric plea that Satish Gir (predecessor of the plaintiffs) had separated from the defendants about 20 years ago (immediately after his marriage) and about 10 years ago a family settlement took place between Satish Gir (predecessor of the plaintiffs) and defendant No.3-Roop Ram Gir (since deceased), wherein land measuring 32 kanal 10 marla was given to Satish



Gir and since then, Satish Gir and/or the plaintiffs are no more family members of joint family of Roop Ram Gir (since deceased). The other pleadings of the plaint were controverted by the defendants and prayer for dismissal of the suit was made.

6. From the pleadings of the parties, the learned trial Court framed the following issues:-

- “1. *Whether the plaintiff is entitled for decree of declaration alongwith consequential relief of permanent injunction as prayed for? OPP*
2. *Whether the suit of the plaintiff is not maintainable in the present form? OPD*
3. *Whether suit of the plaintiff has no cause of action and locus standi to file the present suit? OPD*
4. *Whether the suit is liable to be rejected due to non-payment of proper court fee on the plaint? OPD*
5. *Whether the suit of the plaintiff is false and frivolous? OPD*
6. *Relief.”*

7. The parties to the suit led their respective evidence (oral as well as documentary) on the aforesaid issues.

8. The learned trial Court after considering the facts, pleadings as well as the evidence available on record, dismissed the suit filed by the plaintiffs vide judgment and decree dated 22.03.2017.

9. Feeling aggrieved against the trial Court’s judgment and decree dated 22.03.2017, the plaintiffs preferred an appeal before the learned District Judge, Sirsa, which has also been dismissed vide judgment and decree 03.12.2022.



10. In the aforementioned facts and circumstances, the present regular second appeal has been filed before this Court.

11. I have heard the learned counsel for the appellants-plaintiffs as well as respondent No.3 and perused the paper-book with their able assistance.

12. Learned First Appellate Court vide judgment dated 03.12.2022, while dismissing the appeal of the present appellants-plaintiffs, returned the following findings:-

“17. At the outset, it is case of the plaintiffs that the suit property in the hands of defendant No.3 was ancestral and as such he did not have any right to execute the release deed of the entire land in favour of his daughters, to the exclusion of his other legal heirs. In this regard, it has rightly argued on behalf of the defendants that the plaintiffs have not been able to establish on record that suit land in the hands of defendant No.3 was ancestral land. The suit land constitutes 43 kanals 83 marlas 1 sarsai land which was part of the total land and the same fell to his share in a family partition vide judgment and decree dated 21.10.1988 (Ex.D5 & D6 respectively). The predecessor-in-interest of the plaintiffs Satish Gir son of defendant No.3 Roop Ram Gir and brother of defendants No.1 & 2, was given land measuring 32 kanals 10 marlas vide mutation No.5514 dated 02.03.2001 (Ex.D4) and as such, Satish Gir was given his due share in the property of Roop Ram Gir.

18. It is not the case of the plaintiff that she wants that entire land including the land measuring 32 kanals 10 marlas, and 43 kanals 83 marlas 1 sarsai of the present suit, should be divided amongst legal heirs of Roop Ram Gir. Rather she is claiming



that the entire land should be inherited by legal heirs of Satish Gir, which apparently is against the principles of natural justice itself. Defendant No.3 has clearly embraced the case of defendants No.1 & 2 and has affirmed that he has executed release deed in their favour (his daughters) in equal shares in his sound disposing state of mind and there was no undue influence or fraud played upon him. The girdawaris for the year 2013, 2014 and 2016 are in the name of Pushpa Devi etc. It cannot be said that there is no proof on record regarding possession of defendants No.1 & 2 over the suit land. No doubt abiyana receipt Ex.D1 like the other abiyana receipts Ex.P10 to Ex.P21 cannot be connected with any land and cannot be taken as a document of possession of the suit land. However, the possession follows the ownership and unless it could be shown by leading cogent evidence that defendants were not in possession of the suit land, no advantage can be taken by the plaintiffs in this regard.

19. It is the specific case of the plaintiffs that at the time of family settlement, defendants No.1 & 2 had been given share in cash in the presence of relatives but no amount has been mentioned nor any name of the relative has been revealed during the entire course of trial. Apparently it was just an averment having no basis. No document of family settlement as alleged has also been placed on record. On the other hand defendants have proved the execution of release deed not only from written statement filed by defendant No.3 alongwith them but also by examining DW1 Hans Raj (Lumberdar) and Yogesh Sharma, Advocate, Scribe (DW3). Despite lengthy cross-examination, nothing could be extracted from these witnesses which could create any doubt regarding genuineness of the release deed. The objection made by the plaintiffs on the cross-



examination that there is no reference of the family settlement in the release deed or no reference of Satish Gir or his legal heirs, is of no consequence as the release deed is not in the nature of a Will and defendant No.3 is very much alive to prove the authenticity of the same. The degree of proof required to prove a Will is very much different than decree of proof required to prove the release deed when the executent himself was alive and supports its execution. In these circumstances, I find no infirmity or illegality in the findings given by learned trial Court on issue No.1.”

13. A bare perusal of the above extracted findings would show that the present plaintiffs have failed to establish on record that the suit land was ancestral property in the hands of defendant No.3 (Roop Ram Gir). It has come on record that the predecessor of the appellants-plaintiffs, namely, Satish Gir was the son of defendant No.3-Roop Ram Gir and Roop Ram Gir during his lifetime, had given 32 kanal 10 marla land to Satish Gir (predecessor of plaintiffs) when he separated from the family after his marriage. Apparently, the appellants-plaintiffs are not seeking declaration qua the entire property of Roop Ram Gir i.e. 32 kanal 10 marla which already stands transferred to Satish Gir (predecessor of the appellants-plaintiffs) alongwith the suit land i.e. 43 kanal 18 marla 1 sarsai (which is subject matter of the present suit). Further, the alleged family settlement pleaded by the appellants-plaintiffs, has not been proved on record. On the other hand, the defendants in the suit have duly proved the execution of the release deed by examining one of the witnesses, namely, Shri Hans Raj (DW1) and also the scribe, namely, Shri Yogesh Sharma, Advocate.



Furthermore, defendant No.3-Roop Ram Gir (since deceased) had himself supported the execution of release deed in favour of defendants No.1 and 2.

14. Before this Court, learned counsel for the appellants-plaintiffs has failed to dislodge the aforesaid categoric findings returned by the learned Courts below. It has not been shown to this Court that the findings returned by the Courts below are either illegal or perverse or based upon any misreading or mis-appreciation of material evidence on record. Having gone through the findings returned by the learned Courts below, I am of the considered view that the same are based upon proper appreciation of facts, pleadings as well as evidence available on record. No question of law much less, a substantial question of law arises for adjudication in this regular second appeal.

15. Resultantly, the instant regular second appeal is dismissed being devoid of any merit.

16. All the pending application(s), if any, shall also stand closed.

08.07.2026

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(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No