



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

RSA-744-2023 (O&M)

Date of decision:27.08.2026

Baljit Singh @ Baljeet Singh

....Appellant

Versus

Amritpal Singh and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Amarjit Singh Ahluwalia, Advocate, with
Ms. Gurkarman Kaur Ahluwalia, Advocate,
for the appellant.

Mr. P. K. S. Phoolka, Advocate,
for respondent No.1.

HARSH BUNGER J. (ORAL)

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

1.1 This is the plaintiff's second appeal challenging the judgment and decree dated 15.01.2018 passed by the learned Civil Judge (Junior Division), Bathinda, whereby the suit for declaration and permanent injunction, filed by the plaintiff has been dismissed and also the judgment and decree dated 30.11.2022 passed by the learned Additional District Judge, Bathinda, whereby an appeal filed by the plaintiff against the trial Court's judgment and decree dated 15.01.2018, has also been dismissed.

2. Briefly, plaintiff-Baljit Singh @ Baljeet Singh filed a suit for declaration and permanent injunction on the plea that the father of the



plaintiff as well as the defendants, namely Resham Singh, was the owner in possession of a residential house situated in Street No.8, Hazura Kapura Colony, Bathinda. The said property is claimed to be ancestral coparcenary property in the hands of Resham Singh as he had inherited the same from his father/forefathers. It was averred in the suit that the plaintiff alongwith defendant No.1 has been residing in the house in question jointly and defendants No.2 to 4 being daughters of Resham Singh (sisters of the plaintiff and defendant No.1) have already married and are residing with their respective in-laws. According to the plaintiff, Resham Singh had openly proclaimed that the house in question shall be jointly inherited by the plaintiff and defendant No.1 (in equal shares) as he had already solemnized the marriage of his daughters by spending sufficient amount and he did not intend to give any further share in the house to defendants No.2 to 4. It was stated that the mother of the plaintiff as well as the defendants have already expired.

2.1 It is also pleaded case of the plaintiff that with the passage of time, differences arose between the plaintiff and defendant No.1 and as such an oral family partition took place between the plaintiff and the defendants and Resham Singh (father of the parties) on the eve of *Beshakhi* festival 2011. In the said oral family partition, it is stated that the residential house in question has fallen to the share of plaintiff and defendant No.1 in equal share and the possession of the house in question was handed over/delivered to the plaintiff and defendant No.1. It is averred that Resham Singh had also agreed to get the ownership of the house in question transferred in the names



of the plaintiff and defendant No.1 as per the aforesaid oral family settlement. However, defendant No.1 illegally, fraudulently and by exercising undue pressure and influence over Resham Singh, managed to get a Transfer Deed No.4939 dated 26.07.2011 executed and registered in his favour from Resham Singh regarding the house in question. Accordingly, the plaintiff asserts that the aforesaid transfer deed is illegal, null and void and is a result of fraud, mis-representation and collusion etc.

2.2 The plaintiff claims that notwithstanding the alleged transfer deed, the plaintiff is continuing to be owner in joint possession of $\frac{1}{2}$ share of the house in question. It is averred that Resham Singh expired in the month of August 2011 and the plaintiff became aware of the fraud played by defendant No.1 only in the month of November 2011, whereupon he requested the defendants to admit the lawful claim of the plaintiff and to declare the transfer deed to be illegal, however, to no effect.

2.3 It is also the case of the plaintiff that during the pendency of the suit, some dispute had arisen between the parties, whereupon both the parties submitted their applications before the local police for taking action against each other and ultimately a compromise dated 11.02.2014 was effected whereunder defendant No.1-Amritpal Singh agreed to transfer 20 square yards area in favour of the plaintiff-Baljit Singh by executing a sale deed within seven days from the date of compromise and that he would have no concern with the balance 50 square yards area. The original compromise dated 11.02.2014 is stated to be with the Police Station Thermal Bathinda. It



is also stated that defendant No.1 wants to alienate the property to third person, although he has no right to do so. Accordingly, the suit was filed.

3. Upon issuance of notice in the suit, the defendants appeared and filed their written statement taking various preliminary objections. On merits, it was admitted that the house in question was owned by Resham Singh, however, it was denied that the same is an ancestral coparcenary property in the hands of Resham Singh. The marriage of defendants No.2 to 4 is an admitted fact. It was also admitted that the plaintiff and defendant No.1 are residing in the house in question. However, it is contended that the possession of the plaintiff over a portion of the house in question is totally illegal and unauthorized, without the consent of defendant No.1, who is claimed to be the absolute owner of the house in question on the basis of transfer deed dated 26.07.2011. Defendant No.1 reserved his right to initiate separate proceedings against the plaintiff for getting the house in question vacated from him and also to recover the mesne profits

3.1 It is the case of the defendants that the plaintiff and his wife were totally out of control of deceased Resham Singh and their relations with Resham Singh and other family members were always strained and ultimately Resham Singh disowned and disinherited the plaintiff alongwith his wife from his movable and immovable properties and further got published classified news in the newspaper "Desh Sewak" on 23.06.2009. The defendants further denied any oral family settlement, but the execution of transfer deed dated 26.07.2011 by Resham Singh in favour of defendant No.1 was admitted. The factum of compromise alleged by the plaintiff was



also denied. The other averments of the plaint were denied and prayer for dismissal of the suit was made.

4. The plaintiff filed replication to the written statement filed by the defendants and from the pleadings of the parties, the learned trial Court framed the following issues:-

- “1. *Whether plaintiff is entitled for declaration as prayed for? OPP*
2. *Whether the plaintiff is entitled for permanent injunction as prayed for? OPP*
3. *Whether the plaintiff has no locus standi or cause of action to file the present suit? OPD*
4. *Whether the suit is not maintainable in the present form? OPD*
5. *Whether the plaintiff is estopped from filing the present suit by his own act and conduct? OPD*
6. *Whether the plaintiff has not come to this Court with clean hands or concealed the material facts from the Court, if so, its effect? OPD*
7. *Whether the suit is not properly valued for the purpose of court fee and jurisdiction? OPD*
8. *Relief.”*

5. Thereafter, the parties led their respective evidence (oral as well as documentary) in support of their pleaded case.

6. Learned trial Court, after considering the facts, pleadings as well as the evidence available on record, dismissed the suit filed by plaintiff, vide judgment and decree dated 15.01.2018.

7. Feeling aggrieved against the trial Court’s judgment and decree dated 15.01.2018, plaintiff preferred an appeal before the learned Additional



District Judge, Bathinda, which has also been dismissed, vide judgment and decree dated 30.11.2022.

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

9. I have heard learned counsels for the respective parties and perused the records with their able assistance.

10. At the outset, it is required to be noticed that the appellant has also filed an application under Order 41 Rule 27 CPC for adducing document, i.e. writing dated 19.08.2011 (Annexure A-1) as additional evidence. According to the appellant-plaintiff, vide the aforesaid alleged writing dated 19.08.2011, Resham Singh (father of the parties) had cancelled the Transfer Deed No.4939 dated 26.07.2011. It is stated that they could not prove and exhibit the aforesaid writing dated 19.08.2011 before the learned trial Court, therefore, they want to adduce the same by way of additional evidence.

10.1 After perusing the aforesaid alleged writing dated 19.08.2011 (Annexure A-1), it is revealed that the same is an unregistered document.

10.2 During the course of hearing, it is not disputed by learned counsel for the appellant that the registered Transfer Deed dated 26.07.2011 executed by Resham Singh in favour of defendant No.1-Amritpal Singh could not have been cancelled by way of an unregistered document much less by the alleged writing dated 19.08.2011 (Annexure A-1).

10.3 Furthermore, it is conceded that the aforesaid alleged writing dated 19.08.2011 (Annexure A-1) was in possession of the appellant-plaintiff



and he was aware of the said writing, still no efforts were made by the appellant-plaintiff to produce the said writing on record before the learned trial Court. Rather similar application for leading additional evidence was filed before the learned First Appellate Court also, however, the same was dismissed by observing as under:-

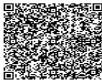
*“12. On hearing upon the application under reference i.e. application under Order 41 rule 27 of Civil Procedure Code, for leading additional evidence, it has been found that the civil suit before the learned trial court was filed on 16.03.2012, the trial of the same concluded vide impugned judgment and decree dated 15.01.2018. Nothing has come on record of due diligence of plaintiff not to prove the said cancellation deed before the learned trial court at the appropriate stage. It is not case of the plaintiff that the said cancellation came to his notice after passing of impugned judgment and decree. Considering the provisions of Order 41 Rule 27 of Civil Procedure Code, nothing has come on record of their said mistake, is the result of their due diligence or of any other reason to fall within the purview of Order 41 rule 27 of Civil Procedure Code. Rather it seems that application under reference is to cause the de-novo trial or to delay the matter on one pretext or the other or to patch up the lacunae. The citations relied upon by the learned counsel for the applicant/appellant are found not supportive to his contentions. As such, **the application under reference i.e. Under Order 41 Rule 27 of Civil Procedure Code, is hereby dismissed, being without any merits.**”*

11. In view of the above, the application for leading additional evidence is found to be without any merit and the same is dismissed.



12. Coming to the main case, both the learned Courts below have returned the concurrent findings of fact that the suit property was owned by Resham Singh (father of the parties to the *lis*) and during his life time, Resham Singh had transferred the suit property in favour of defendant No.1 (Amritpal Singh) vide Transfer Deed dated 26.07.2011 (Ex.D1) and as a consequence thereof, an entry in that regard was also made in the revenue record. It has also been concurrently held that the appellant-plaintiff has failed to bring on record any material evidence to show that the suit property was ancestral coparcenary property in the hands of Resham Singh. It has been admitted by the appellant-plaintiff that his father (Resham Singh) had received the suit property from his mother vide a registered Will and as such there is nothing to consider the suit property to be ancestral and coparcenary property in the hands of Resham Singh. The learned Courts below have further concurrently held that the appellant never challenged the said transfer deed during the life time of his father Resham Singh.

12.1 On the other hand, the defendants are stated to have proved on record that the plaintiff was disobedient son of Resham Singh which forced Resham Singh to disinherit the plaintiff. The learned First Appellate Court has rightly held that the transfer deed dated 26.07.2011 (Ex.D1) is a registered document and the same could not have been set aside either by way of any oral family settlement or by way of any unregistered cancellation deed/writing dated 19.08.2011, as claimed by the appellant-plaintiff. Further, the stand of defendant No.1-Amritpal Singh has been duly supported by defendants No.2 to 4 (sisters of the plaintiff as well as defendant No.1).



13. After appraising the findings returned by the learned Courts below, I am of the considered view that the same are well reasoned and based upon proper appreciation of facts, pleadings as well as the evidence on record, which does not call for any interference by this Court. No question of law much less, a substantial question of law arises for adjudication in this regular second appeal.

14. Resultantly, the instant regular second appeal fails and same is accordingly, dismissed..

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

27.08.2026
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(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No