



**RSA-1720-2022 (O&M)**

**-1-**

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

**122**

**RSA-1720-2022 (O&M)  
Date of Decision :- 23.07.2026**

**Jaspal Singh**

**....Appellant**

**Versus**

**Daljit Singh Gill and others**

**...Respondents**

**CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI**

**Present:-** Mr. Virinder Kumar Shukla, Advocate and  
Mr. Ashish Gupta, Advocate  
for the appellant.

Mr. Rajesh Bhatheja, Advocate  
for respondent Nos. 1 and 2.

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**AMARJOT BHATTI, J.**

1. The appellant/defendant No. 5 Jaspal Singh filed appeal against impugned judgment and decree dated 02.04.2022 passed by learned Additional District Judge, Moga, vide which appeal preferred by respondents No. 1 and 2 (plaintiffs in main case) was accepted and well-reasoned judgment and decree dated 04.10.2018 passed by learned Civil Judge (Junior Division), Moga has been wrongly set aside, which is against the law, facts and evidence on record.

2. As per the facts narrated in the plaint, plaintiffs Daljit Singh Gill and Davinder Singh Gill through their Power of Attorney Baldev Singh (respondents No. 1 and 2 in present RSA) filed suit for declaration that they are owners of <sup>1/2</sup> share, Bhupinder Kaur defendant No. 1 (respondent No. 3 in RSA) is owner of <sup>1/4</sup> share and defendants No. 2 to 4 (respondents No. 4 to 6 in RSA) are owners of <sup>1/4</sup> share of house measuring



7 marlas marked as ABCD, shown red in site plan with specific boundaries within the *abadi* area (red line) of village Mehna, Tehsil and District Moga and for declaration that defendant No. 5 Jaspal Singh (appellant in RSA) is in unauthorized possession of suit property along with relief of possession of said house from defendant No. 5 or any other relief which the Court may deem fit and proper.

The plaintiffs alleged that aforesaid house was previously owned by their father Bhag Singh who died leaving behind his two sons and two daughters, namely, Daljit Singh Gill, Davinder Singh Gill, Bhupinder Kaur and Surinder Kaur (since deceased), now represented by her legal heirs i.e. her husband Jagjit Singh Brar, son Gary and daughter Ritam (defendants No. 2 to 4 in civil suit). On the death of Bhag Singh, they became owners of said house with shares as detailed in plaint. Defendant No. 5 Jaspal Singh was alleged to be in an unauthorized possession of suit property having no right, title in the same. He in collusion with Dilbagh Singh and Shaminder Singh Namberdar prepared forged and fabricated agreement to sell allegedly accepted by defendant No. 1 Bhupinder Kaur and thereafter, he filed a civil suit for possession as owner by way of specific performance of agreement to sell suit titled as “Jaspal Singh Vs. Bhupinder Kaur”, which was pending at the time of filing of suit. The plaintiffs had approached the Court and filed application under Order I Rule 10 read with Section 151 CPC for impleading them as parties, but their application was declined. Thereafter, defendant No. 5 Jaspal Singh started denying the ownership of plaintiffs over the suit property. Finally, present suit was filed.



3. Notice of the suit was given to defendants. Defendant Nos. 1 to 4 did not come forward to contest the suit and accordingly, they were proceeded against *exparte*.

Defendant No. 5 Jaspal Singh filed his written statement taking preliminary objections. On merits, he took the stand that suit property was in the ownership of Bhupinder Kaur – defendant No. 1 who was residing in the said house. She executed an agreement to sell dated 11.10.2002 in favour of answering defendant and also received Rs. 50,000/- as earnest money on 11.10.2002. The total sale consideration was Rs. 1,50,000/-. Later on, Bhupinder Kaur refused to execute the sale deed in favour of defendant No. 5, as a result, civil suit RT No. 508 of 2010 was filed by defendant No. 5 on the basis of agreement to sell which was decided in his favour on 31.10.2012. In the said civil suit, application filed by plaintiffs for impleading them as party was declined by the trial Court on 13.09.2012 and revision preferred against this order was also dismissed by the High Court. The plaintiffs and defendants No. 2 to 4 were residing in Canada, therefore, Bhag Singh had given the said house to Bhupinder Kaur-defendant No. 1. Now plaintiffs as well as defendants No. 1 to 4 have no right in the house in dispute. Bhupinder Kaur had handed over the possession of the said house to defendant No. 5. He prayed for dismissal of suit filed by plaintiffs.

4. In replication, the plaintiffs denied the facts stated in the written statement and reiterated their claim in the plaint.

5. From the pleadings of the parties, following issues were framed by the trial Court on 21.08.2015 :-



- (1) *Whether the plaintiff is entitled to the relief of declaration as prayed for?* OPP
- (2) *Whether the plaintiff is entitled to the relief of possession as prayed for?* OPP
- (3) *Whether the suit of the plaintiff is not maintainable in the present form?* OPD
- (4) *Whether the plaintiff has no locus-standi to file the present suit?* OPD
- (5) *Whether the plaintiff has concealed the material facts from the Court?* OPD
- (6) *Relief.*

6. In order to prove the suit, plaintiffs examined Zora Singh as PW-1, Davinderjit Singh as PW-2, Satnam Singh, Ahlmad, office of SDM, Moga as PW-3 and Avinash Chander Garg as PW-4. Thereafter, learned counsel for plaintiffs vide separate statement closed evidence on behalf of plaintiffs on dated 06.12.2016.

7. In order to rebut the case of plaintiffs, defendant No. 5 Jaspal Singh himself stepped into the witness box as DW-3. He also examined Shaminder Singh as DW-1, Dilbagh Singh as DW-2 and Jasmer Singh as DW-4. Thereafter, learned counsel representing defendant No. 5 after tendering into evidence documents i.e. Ex.D3 to Ex.D8, closed the evidence on behalf of defendant No. 5.

8. In rebuttal evidence, learned counsel for plaintiffs tendered document Ex.PX.

9. After hearing the arguments advanced by learned counsel for both the parties, suit filed by plaintiffs was dismissed vide judgment and decree dated 04.10.2018 passed by learned Civil Judge (Junior Division),

Moga. Feeling aggrieved of this judgment and decree, plaintiffs filed Civil



Appeal No. 349 of 2018 dated 19.12.2018 and same was accepted vide impugned judgment and decree dated 02.04.2022 passed by learned Additional District Judge Moga, vide which the suit filed by plaintiffs (appellants before First Appellate Court) was decreed and they were declared to be owners to the extent of  $\frac{1}{2}$  share in suit property, whereas, defendant Nos. 3 and 4 (respondent Nos. 5 and 6 in RSA) were declared owners to the extent of  $\frac{1}{4}$  share in suit property and defendant No. 1 (respondent No. 3 in RSA) was declared owner to the extent of  $\frac{1}{4}$  share in suit property. Defendant No. 2 Jagjit Singh Brar was not entitled to any share, with further relief that plaintiffs and defendant Nos. 3 and 4 are entitled to take back possession of their respective shares from defendant No. 5 Jaspal Singh. The sale deed in favour of defendant No. 5 Jaspal Singh executed by defendant No. 1 Bhupinder Kaur was held valid qua  $\frac{1}{4}$  share in suit property and sale deed regarding remaining  $\frac{3}{4}$  share was set aside. However, defendant No. 1 Bhupinder Kaur was held liable to return sum of Rs. 1,12,500/- along with interest @9% per annum from the date of payment in favour of defendant No. 5.

Feeling aggrieved of this judgment and decree, present Regular Second Appeal has been preferred by appellant/defendant No. 5 Jaspal Singh.

10. I have heard the arguments advanced by learned counsels for both the parties. Learned counsel representing appellant/defendant No. 5 took the stand that judgment and decree dated 02.04.2022 passed by learned Additional District Judge, Moga is based on conjectures and surmises. Learned First Appellate Court while deciding the case failed to



appreciate that suit filed by appellant/defendant No. 5 Jaspal Singh bearing civil suit RT No. 508 of 2010 titled “Jaspal Singh Versus Bhupinder Kaur” seeking possession as owner by way of specific performance of contract was decreed vide judgment and decree dated 31.10.2012. Thereafter, on payment of balance sale consideration, sale deed was got executed through Court on 15.02.2017. Material fact was plaintiffs filed application under Order I Rule 10 CPC for impleading them as party but said application was declined by the trial Court vide order dated 13.09.2012 and civil revision petition No. 6215 of 2012 filed against this order was also declined by the High Court vide its order dated 17.10.2012. No appeal was preferred against the judgment and decree dated 31.10.2012 and same attained finality. Respondent Nos.1 and 2/plaintiffs while filing present civil suit did not challenged the sale deed which was executed in favour of appellant/defendant No. 5 on the basis of judgment and decree dated 31.10.2012 passed by the Civil Court. There was no prayer of respondent Nos. 1 and 2/plaintiffs for setting aside the sale deed in favour of appellant/defendant No. 5. Relief granted by learned First Appellate Court is beyond the pleadings. In fact, the evidence has not been appreciated in its correct perspective. Bhupinder Kaur – defendant No. 1 (respondent No. 3 in this case) was owner as well as in possession of suit property and she had handed over the possession of said property. In fact, Bhag Singh during his lifetime had given the suit property to his daughter Bhupinder Kaur, whereas, other family members were citizens of Canada. She being owner in possession of suit property had entered into an agreement to sell with appellant/defendant No. 5. The previous judgment and decree dated



***RSA-1720-2022 (O&M)***

***-7-***

31.10.2012 has been totally ignored by learned First Appellate Court while deciding the appeal. It is submitted that impugned judgment and decree dated 02.04.2022 passed by learned First Appellate Court may kindly be set aside by accepting the present appeal and judgment and decree dated 04.10.2018 passed by learned Civil Judge (Junior Division), Moga may kindly be upheld.

11. On the other hand, learned counsel representing respondent Nos. 1 and 2/plaintiffs took the stand that learned trial Court failed to consider material facts in the present case and wrongly dismissed the suit filed by respondent Nos/ 1 and 2/plaintiffs. Said judgment and decree dated 04.10.2018 was challenged by filing civil appeal, which was accepted by learned Additional District Judge, Moga by passing reasoned and detailed judgment and decree dated 02.04.2022. In fact, respondent No.3/defendant No. 1 Bhupinder Kaur had no right to alienate the entire suit house situated within the *lal lakeer* of village Mehna owned by their father Bhag Singh. The interest of appellant/defendant No. 5 Jaspal Singh has been duly protected qua the share of Bhupinder Kaur in the house in question, whereas, respondent Nos. 1 and 2/plaintiffs as well as children of late Surinder Kaur were rightly held for having share in the house in dispute, as detailed in the judgment. Appeal preferred by appellant/defendant No. 5 is without merits and same deserves dismissal.

12. I have considered the arguments and have gone through the trial Court record carefully. It is an admitted fact that property in dispute i.e. the house marked as ABCD in site plan with specific boundaries is situated within *abadi* area (red line) of village Mehna, Tehsil and District



Moga. It is further not disputed that Bhag Singh was owner in possession of the house. This fact is admitted by appellant/defendant No. 5 Jaspal Singh examined as DW-3 during his cross-examination. He is also resident of same village where the property is situated. Furthermore, Shaminder Singh DW-1, Dilbagh Singh DW-2 and Jasmer Singh Numberdar DW-4 consistently admitted that Bhag Singh was owner of the house. The respondent Nos.1 and 2/plaintiffs examined Satnam Singh, Ahlmad, office of SDM, Moga as PW-3 who has proved on record the application (Ex.PW3/A) as well as order of Sub Divisional Magistrate (Ex.PW3/C) confirming that Bhag Singh died leaving behind his sons Daljit Singh Gill and Davinder Singh Gill, daughters Bhupinder Kaur and Surinder Kaur and after death of daughter Surinder Kaur, her children, who all are plaintiffs and defendants No.1, 3 and 4 in the civil suit. Jaspal Singh as DW-3 during his cross-examination further admitted that said house was ancestral property of Bhag Singh. He showed his ignored if Bhag Singh during his lifetime ever executed any sale deed or transfer deed in favour of his daughter Bhupinder Kaur-respondent No. 3/defendant No. 1. On the other hand, Shaminder Singh as DW-1 during his cross-examination confirmed that Bhag Singh during his lifetime never transferred the said property in the name of Bhupinder Kaur in any manner.

Therefore, in the light of aforesaid factual position, it is clear that Bhag Singh died intestate, leaving behind his legal heirs as referred above. The other property owned by Bhag Singh was mutated on the basis of inheritance. During his lifetime, he never transferred the ownership of said house i.e. suit property in favour of his daughter Bhupinder Kaur-



respondent No.3/defendant No. 1 in any manner. Therefore, she was not absolute owner of property to alienate or deal with the same in any manner. She could not pass a better title than she herself had in the property.

13. It is matter of record that appellant/defendant No. 5 Jaspal Singh on the basis of agreement to sell dated 11.10.2002 filed civil suit RT No. 508 of 2010 against Bhupinder Kaur, which was finally decreed in his favour vide judgment and decree dated 31.10.2012 (Ex.D-6 and Ex.D-7 respectively). It is also matter of record that respondent Nos. 1 and 2/plaintiffs filed application under Order I Rule 10 read with Section 151 CPC (Ex.D-3) to be impleaded as party in the said case, but said application was declined by the trial Court vide order dated 13.09.2012 (Ex.D-5) and Civil Revision No. 6215 of 2012 filed against this order was also dismissed by this Court vide order dated 17.10.2012 (Ex.D-8). Admittedly the plaintiffs were not party to said agreement to sell dated 11.10.2002. Finally, the plaintiffs filed present suit. Learned First Appellate Court keeping in mind the aforesaid litigation while passing impugned judgment and decree dated 02.04.2022 upheld the sale deed in favour of appellant/defendant No.5 to the extent of <sup>1/4</sup> share in suit property which belonged to respondent No.3/defendant No. 1 Bhupinder Kaur and also granted recovery right with interest in favour of appellant/defendant No. 5 as detailed therein.

14. Considering the aforesaid factual position, learned Additional District Judge, Moga while passing impugned judgment and decree dated 02.04.2022 has kept in mind all the material facts and rightly accepted the appeal filed by respondent Nos. 1 and 2/plaintiffs and decreed their suit as

RSA-1720-2022 (O&M)

-10-

detailed in impugned judgment. Therefore, I do not find any illegality or perversity in the findings given by learned Additional District Judge, Moga and accordingly, impugned judgment and decree dated 02.04.2022 is upheld. Consequently, finding no merits in present Regular Second Appeal preferred by appellant/defendant No. 5 Jaspal Singh, same is, accordingly dismissed.

15. Pending miscellaneous application(s) if any, shall stand disposed of accordingly.

23.07.2026  
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(AMARJOT BHATTI)  
JUDGE

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