

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

**Regular Second Appeal No.3291 of 2015 (O&M)  
Date of Decision: February 02, 2016.**

Surjit Singh

.....APPELLANT(s).

**VERSUS**

Hargobind Singh and others

.....RESPONDENT(s).

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Kashish Garg, Advocate  
for the appellant (s).

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**SURINDER GUPTA, J.**

Heard.

2. This is appeal by plaintiffs against the concurrent judgments of the Courts below whereby the suit of the appellant-plaintiff was partly decreed allowing him the relief of permanent injunction restraining the defendants from alienating more than their share and by specific khasra numbers of joint land of parties as fully described in the head note of the plaint, without getting the same partitioned in accordance with law.

3. As per the case of the appellant-plaintiff, he, along with defendants No.1 and 2, is joint owner of the land measuring 71 kanals 9 marlas, out of which plaintiff is owner of 1/2 share, while defendants No.1 and 2 are owners of remaining 1/2 share. Vide sale deed No.1439 dated 14.09.2006, Nos.1564 and 1565 dated 16.10.2006, defendants No.1 and 2

sold land measuring 18 kanals ½ marla to defendant No.3, concealing the fact of pendency of the present suit and without getting the suit land partitioned by metes and bounds.

4. Defendant No.3 contested the claim of plaintiff with the plea that he had purchased the land of the share of defendants No.1 and 2. Plaintiff and defendants No.1 and 2 vide another agreement to sell dated 23.12.2005 agreed to sell 32 kanals 2 marlas of land out of the suit land to defendant No.3 for which a separate suit seeking relief of specific performance of the agreement was filed.

5. The Courts below declined the relief sought by the plaintiff that the sale deed No.1439 dated 14.09.2006, Nos.1564 and 1565 dated 16.10.2006 are illegal, null and void but partly decreed the suit of the plaintiff as mentioned in para 2 above.

6. Learned counsel for the appellant-plaintiff has argued that the suit land is still joint and defendants No.1 and 2 were not competent to alienate specific portion of the suit land without getting their share partitioned, as such, sale deeds in question are illegal, null and void and Courts below have committed grave error of law and fact while declining this relief to the appellant-plaintiff.

7. On giving a careful thought to the submissions of learned counsel for the appellant, I find no merit therein. Defendants No.1 and 2 have sold land of their share. It is well settled that sale of land by specific khasra numbers is sale of share of vendor(s) subject to adjustment at the time of partition. Admittedly, the plaintiff has not filed any partition proceedings

so far. Defendants No.1 and 2 neither sold land more than their share, nor

they have in any manner interfered in the right/share of plaintiff in suit land.

8. On perusal of the record and judgments of the Courts below, I find no legal or factual infirmity therein calling for any interference.

9. No substantial question of law requiring determination arises in this appeal, which has no merits.

10. Dismissed.

**February 02, 2016.**  
*Sachin M.*

**( SURINDER GUPTA )**  
**JUDGE**