

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

**RSA No.3265 of 2016 (O&M)**

**Date of decision:17.05.2019**

Kulwant Singh

... Appellant

Vs.

Fateh Singh @ Fatta Singh and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Naresh Kumar Manchanda, Advocate  
for the appellant.

**AMIT RAWAL J. (Oral)**

The appellant-plaintiff sought the declaration to be owner of land measuring 12 kanals 15 marlas comprised of khasra no.258(12-15) as per the sale deed dated 18.08.2003 executed by defendants no.3, 5 and 6- Gurjeet Kaur, Jagdish Kaur and Manjit Kaur, respectively by setting aside the decree dated 15.09.2006 in a civil suit bearing no.398-1 dated 9.6.2003 titled as Fateh Singh Vs. Gurjeet Kaur and others.

It was alleged that appellant-plaintiff had become the owner of the suit land by virtue of the sale deed and as per the decree, Fateh Singh was accorded 1/5<sup>th</sup> share owner and it was not binding upon him. The defendants contested the suit and both the parties led extensive evidence.

Mr. N.K.Manchanda, learned counsel appearing on behalf of the appellant-plaintiff submitted that the suit land purchased by the appellant from three persons, was regarding their share only and the sale

was not in excess. The Courts below could have treated the suit for joint or separate possession instead of declaring the declaration as the status of Fateh Singh-defendant no.1 was of 1/5<sup>th</sup> share alongwith his son Darbara Singh in the entire suit property measuring 21 kanals 3 marlas.

I have heard the learned counsel for the appellant-plaintiff, appraised the judgments and decrees of the Courts below and of the view that plaintiff was not properly advised to claim the declaration as the remedy was to seek separate possession, if joint possession of all not acceptable.

As per the submission of Mr. Manchanda, it is not a case where Kulwant Singh's title had been effected by virtue of the decree whereby Fateh Singh had been conferred 1/5<sup>th</sup> share in the aforementioned land whereas other 1/5<sup>th</sup> is Darbara Singh and remaining 3/5<sup>th</sup> share, had been sold by Gurjeet Kaur and Jagdish Kaur.

It is a matter of record that prior to the institution of the suit in 2003 on the demise of Paramjit Singh son of Fateh Singh, entry with regard to 1/5<sup>th</sup> share was rectified in the impugned decree of 2006. The remedy in such circumstances was to seek partition but not the relief as mentioned above and rightly so, the suit has been dismissed by the Courts below.

The arguments of Mr. Manchanda, have not been able to bring the case within the realm of illegality and perversity to form a different opinion than the one arrived at by the Courts below. No substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)  
JUDGE

May 17, 2019  
savita

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|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |