

## 153

GINDER SINGH @ MANDAR SINGH AND OTHERS

## ..Appellants

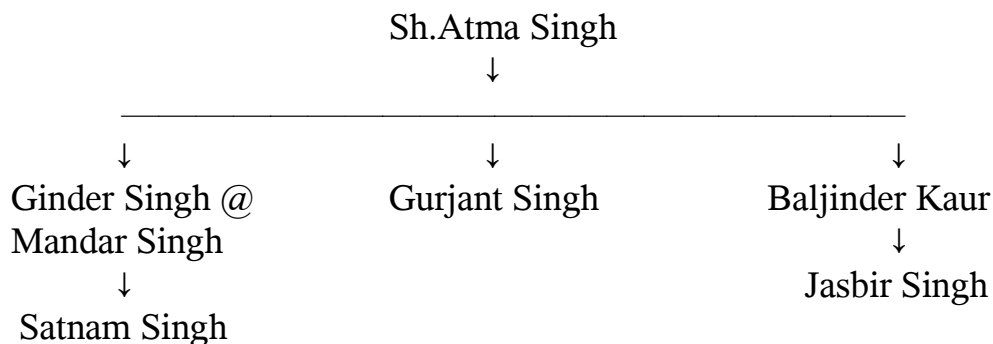
JASBIR SINGH

## ..Respondent

Present: Mr. Ashdeep Singh, Advocate  
for the Appellants.

ANIL KSHETARPAL, J(Oral)

While assailing the findings of fact arrived at by the First Appellate Court, the defendants have filed the present Regular Second Appeal. In fact, the parties to the litigation are members of a family. In order to understand their *inter se* relationship, a small pedigree table is being drawn:-



Sh. Atma Singh gifted 26 kanals and 15 marlas of land comprised in Khewat No.66, Khatauni No.81, Khasra Nos.36//14/2(1-7), 17(8-0), 36//24(8-0), 25(8-0) and 37//21/1(1-8) to Jasbir Singh, vide registered gift deed No.4508 dated 01.03.2013. Thereafter, Sh. Atma Singh delivered possession of the land gifted to Jasbir Singh vide Civil Court decree dated 20.04.2013. As per the jamabandi for the year 2010-11, Sh. Atma Singh was exclusive owner of the suit property who had gifted that property to his grand-children.

The defendants denied the execution of the gift deed by Sh.

Atma Singh. It was also asserted that Sh. Atma Singh has filed a suit

challenging the gift deed. The learned trial Court dismissed the suit for grant of decree of injunction on the ground that the parties are co-sharers. The learned First Appellate Court after re-appreciating the evidence found that Sh. Atma Singh was in exclusive possession and thereafter, it is Jasbir Singh who is in exclusive possession of the property which was a subject matter of gift deed.

It may be noted here that the suit filed by Sh. Atma Singh challenging the gift deed has already been dismissed, though, an appeal is pending.

This Bench has heard the learned counsel representing the appellants at length and with his able assistance perused the paperbook.

The learned counsel representing the appellants contend that the parties are co-sharers and therefore, the suit for injunction was not maintainable. The learned First Appellate Court has, on appreciation of evidence, found that Sh. Atma Singh was in exclusive possession of the land which is the subject matter of the gift deed and he acknowledged the possession of Jasbir Singh, the donee, in Civil Court vide judgment and decree dated 20.04.2013.

In such circumstances, the plaintiff is entitled to protect his possession.

Hence, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

**April 22<sup>nd</sup>, 2022**

**(ANIL KSHETARPAL)**  
**JUDGE**

*Ay*

*Whether speaking/reasoned*

: *Yes/No*

*Whether reportable*

: *Yes/No*