

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****116****RSA-716-2022 (O&M)****Date of decision: 27.11.2025****Balwan Singh****...Appellant(s)****Vs.****Balraj Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Sanjeev Majra, Advocate for the appellant.***********NIDHI GUPTA, J.**

Plaintiff is in Second Appeal against the concurrent judgments and decrees of the learned Courts below; whereby suit filed by the appellant for declaration and permanent injunction, has been dismissed by both the Courts below.

2. Brief facts of the case are that the plaintiff had filed the instant suit seeking declaration to the effect that he is owner in possession to the extent of half share of the residential plot. Plaintiff also sought declaration that he is owner in joint possession to the extent of 1/5th share in agricultural land; and permanent injunction restraining the defendants from alienating the suit properties.

3. It was pleaded in the plaint that plaintiff and defendants are real brothers and members of Joint Hindu Family being sons of late Inder Singh. Inder Singh had died on 10.02.2010. It was alleged in the plaint that Release Deed dated 04.01.2010 executed by Inder Singh in favour of



the defendants, was illegal, null and void because Inder Singh was not of sound mind at the time of execution of Release Deed dated 04.01.2010 which was executed in collusion with Deed Writer and staff of Registrar Matlauda. Moreover, suit property was ancestral in nature. Therefore, Inder Singh had no right to alienate the same. Even otherwise, Inder Singh had executed Agreements dated 21.05.1989, 28.06.1989 and 09.03.1998 in favour of the plaintiff as per which share of the plot No. 630 (1-19) of Inder Singh came in share of the plaintiff and cost of construction was also received by him vide Agreement dated 09.03.1998. It was contended that therefore, Release Deed was liable to be cancelled. Accordingly, present suit was filed on 07.06.2011.

4. Upon appraisal of the pleadings and the evidence led by the parties, the learned Additional Civil Judge (Senior Division), Panipat had dismissed the suit of the plaintiff vide judgment and decree dated 24.02.2016. The Civil Appeal filed by the appellant was also dismissed by the learned District Judge, Panipat vide judgment and decree dated 24.05.2019. Hence, the present Second Appeal by the plaintiff.

5. It is *inter alia* submitted by learned counsel for the appellant that impugned judgments of the learned Courts below were based upon surmises and conjectures. Learned Courts below have gravely erred in not relying upon independent witnesses produced by the appellant. Even issues have not been correctly framed. Therefore, impugned judgments and decrees are liable to be set aside on the short ground itself.

Judgments of the learned Courts below are based on assumptions and



presumptions. Learned Courts below have given findings beyond the pleadings. Impugned judgments are vague and self contradictory. Learned Courts below also committed grave injustice in ignoring the fact that plaintiff is a member of Joint Hindu Family. As such, he has right in the suit property. Learned Courts below have erred in ignoring the Agreements dated 21.05.1989, 04.06.1989, 28.06.1989 and 09.03.1998 by which suit land was given to the appellant by Inder Singh. No adverse inference could have been drawn against the appellant merely on account of the fact that said Agreements were unregistered; as admittedly these Agreements had taken place between members of Joint Hindu Family. As such, there was no need to register them in any manner.

6. It is further submitted by learned counsel for the appellant that the Ld. Lower court also ignored the fact that at the time of execution and registration of release deed Sh. Inder Singh was not having sound mind and same has been got registered from him in fraudulent manner in collusion with deed writer and witnesses of the same. Hence Release Deed is not enforceable in the eyes of law and same is liable to be set-aside, but the Ld. Courts did not consider this aspect.

7. It is contended that Plaintiff had also led cogent evidence to prove his possession over the suit property. However, the said evidence has been ignored by the learned Courts below.

8. It is accordingly prayed that the present Second Appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.



9. No other argument is raised on behalf of the appellant. I have heard learned counsel for the appellant and perused the case file in great detail. I find no merit in the submissions made on behalf of the appellant.

10. The plaintiff has placed reliance upon Agreements dated 21.05.1989 (Ex.P2), 04.06.1989 (Ex.P3), 28.06.1989 (Ex.P4) and 09.03.1998 (Ex.P5) (available at pages 123 to 129 of the LCR respectively); whereby allegedly part of the suit property was given by Inder Singh to the plaintiff. However, a perusal of the said documents shows that no details of the property allegedly given by Inder Singh to the plaintiff, have been mentioned therein. In the Agreement dated 09.03.1998 Ex.P5, there is reference of one Khasra No. 630 in respect of which it is stated that said plot was exchanged for a sum of Rs.1,30,000/-. Notwithstanding the said recital, in the Jamabandi for the year 2001-2002, the said plot is still standing in the name of Inder Singh alongwith other co-sharers.

11. Moreover, in Jamabandi for the year 1986-1987 Ex.D2, Inder Singh is recorded to be owner of 16K and plaintiff and defendants are recorded as owners of the remaining land of 151 K 6 M; meaning thereby, that the land was partitioned during lifetime of Inder Singh; and therefore, parties were no longer members of Joint Hindu Family. This finding is further substantiated from the fact that plaintiff during his cross-examination has admitted that in the previous settlement, houses in *abadi deh* were given to his brothers by Inder Singh with consent of the plaintiff. Plaintiff has further admitted that land was also transferred in the



name of 5 brothers. Clearly therefore, the Agreement dated 09.03.1998 Ex.P5 was never acted upon and was not incorporated in the revenue record. In respect of the remaining Agreements, plaintiff has failed to produce any evidence to show which land the said Agreements pertained to.

12. Moreover, plaintiff has failed to lead any evidence to substantiate his assertion that Inder Singh was not in a sound disposing mind at the time of execution of Release Deed on 04.01.2010. In fact, PW2/Shiv Kumar, Draftsman, Sub Tehsil Matlauda in cross-examination has stated that Inder Singh was healthy and in fit state of mind; and that after Release Deed was written, it was read over to Inder Singh and was signed by him in presence of witnesses. Admittedly, mutation of Release Deed has also been sanctioned. Plaintiff also failed to lead any evidence to show his possession over the suit property.

13. Thus, from a reading of the entire documentary and other evidence on record, it follows that out of entire property inherited by Inder Singh from his father, Inder Singh had transferred 151K 6M to the extent of equal shares in favour of his sons - being the plaintiff and defendants No. 1 to 4. The entries in Jamabandis Ex.D2 to Ex.D4 corroborate this fact. The land in favour of the plaintiff and the said defendants was transferred on the basis of partition. Inder Singh being co-owner in the entire joint property was entitled to his share in the same. Accordingly, Inder Singh had held his share in form of disputed property

No.2 after partition of remaining land in favour of his 5 sons including the plaintiff. The same is reflected in the Jamabandi Ex.D2 to Ex.D4.

14. Joint property of which disputed property No.2 was a part, had been partitioned amongst co-parceners. As such, same did not remain ancestral coparcenary property and became new share of Inder Singh. Thus, Inder Singh was competent to execute Release Deed dated 04.01.2010 Ex.DW2/A qua his share in favour of defendants No. 1 to 4.

15. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.

16. In view of the above, the present Regular Second Appeal stands **dismissed**.

17. Pending applications, if any, stand disposed of.

27.11.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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