



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

RSA-668-2025 (O&M)

Date of decision : 04.03.2025

Mukhtar Singh and another

...Appellants

Vs.

Nirmal Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. B.B.S. Randhawa, Advocate
for the appellants.

ANIL KSHETARPAL, J. (Oral)

1. The defendants assail the correctness of the First Appellate Court's judgment which in turn has reversed the judgment of the trial Court.
2. The total joint holding of the co-sharers is 227 kanals 04 marlas. The plaintiffs or their predecessors are the original co-sharer in the property, whereas, the defendants (appellants herein) purchased 42 kanals 05 marlas land from Sh. Salwant Singh vide sale deed dated 23.11.2004. The plaintiffs filed a suit for permanent injunction claiming exclusive cultivating possession as co-sharers over the land measuring 03 kanals 04 marlas comprised in rectangle No. 45, Khasra Nos. 18/1 and 18/2.
3. The First Appellate Court has found that originally, Sh. Balwant Singh, co-sharer (plaintiff's father) was recorded to be in exclusive possession of the property as co-sharer. It has further been found by the First Appellate Court that the defendants have failed to prove that they were delivered possession of the property in dispute.



4. Heard the learned counsel representing the appellant at length and with his able assistance perused the paper-book.

5. Learned counsel representing the appellants contends that the proceedings for partition of the property are pending before the Assistant Collector and the plaintiffs (respondents herein) are likely to use this judgment in the aforesaid proceedings. He further submits that the present suit was filed in response to the application filed by the appellant for correction of khasra girdawaries.

6. This Court has considered the submission made by the learned counsel representing the appellants.

7. It is not in dispute that the appellants purchased a share in the joint property. There is no evidence to prove that they were delivered possession of the suit property measuring 03 kanals 01 marlas, whereas, in the revenue record which carries presumption of correctness, Sh. Balwant Singh, plaintiff's father, is recorded in physical possession of the property. In the partition proceedings, which are admittedly pending, the Competent Court would proceed to partition the property by metes and bounds. Possession of a particular party over some portion of joint property is on behalf of all the co-sharers that is how every co-sharer is deemed to be in possession of every portion of the joint property.

8. With regard to second submission, it would be noticed that the plaintiffs have proved their exclusive possession over the property, whereas, defendants have failed. The plaintiffs are original co-sharers, whereas, the appellants are subsequent purchasers. The appellants being purchasers of a share in the joint property are required to seek possession by filing proceedings

for partition, which is already pending.

9. With these observations, the appeal is dismissed.
10. All the pending miscellaneous applications, if any, are also disposed of.

04.03.2025

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(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No