



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

(126)

**RSA-649-2025 (O&M)**  
Date of Decision:-**16.09.2025**

SMT MUKESH AND OTHERS

... Appellants

Versus

MEWA SINGH (DECEASED)THROUGH HIS LRs AND OTHERS ... Respondents

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**CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present:- Mr. M.S. Kathuria, Advocate  
for the appellants.

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**VIRINDER AGGARWAL, J.** (Oral)

1. The present Regular Second Appeal (hereinafter referred to as “RSA”) has been preferred by the appellants challenging the concurrent findings recorded by both the Courts below. The appellants, along with proforma respondents, had instituted a civil suit seeking a declaration and permanent injunction. In the said suit, they asserted that the property in dispute was ancestral and coparcenary in nature in the hands of Duli Chand, and therefore, they assailed the release deed dated 17.08.2010, whereby Duli Chand had transferred 79 Kanals and 2 Marlas of land in favour of defendants No.1 to 5.

2. Upon a full-fledged trial, both the Courts below, after carefully examining the pleadings, documentary evidence, and oral testimony, returned categorical findings against the appellants. The Courts came to the conclusion that the suit property could not be treated as ancestral or coparcenary property in the hands of defendant No.6, namely Duli Chand, merely on the grounds of admission of defendants. Reliance was placed



upon documentary evidence, particularly Ex.D4, a copy of the mutation, which clearly indicated that part of the agricultural land forming the subject matter of the suit had been received by Duli Chand as a gift. Likewise, Ex.D7 and Ex.D8, being copies of mutation orders, established that certain other parcels of the land were transferred to Duli Chand by way of gift from Mohinder and Thakur Jeet, respectively. This evidence unequivocally demonstrated that the property was not ancestral in character but instead had come to Duli Chand through gifts from other individuals.

3. I have given my thoughtful consideration to the submissions advanced by the learned counsel appearing on behalf of the appellants. I have also carefully scrutinized the entire record of the case in detail, with particular attention to the pleadings, documentary evidence, and findings of the Courts below.

4. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of **Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157**, followed by the judgments in the case of **Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317** and **Satender and others V/s Saroj and others, 2022(12) Scale 92**. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

5. During the pendency of the first appeal, the appellants sought to introduce additional evidence by way of an application to prove on record a



copy of mutation No.193. However, the learned First Appellate Court declined the said request. It was noted that the application was moved belatedly on 26.07.2024, despite the fact that the certified copy of the mutation had been obtained by the applicants as far back as the year 2017. Furthermore, the Court observed that mutation No.193 described the land in terms of 'Bigha' and 'Biswa', whereas the suit property was recorded in Kanals and Marlas, thereby creating inconsistency. Consequently, even if such mutation was taken on record, it would be of no assistance in determining the central issue of the case. On this reasoning, the Appellate Court held that the application for additional evidence was wholly without merit and rightly dismissed the same.

6. Both the Courts below, upon proper appreciation of evidence, concurrently found that the appellants had failed to discharge the burden of proving that the suit property was ancestral or coparcenary in nature in the hands of defendant No.6, Duli Chand. In light of this finding, the appellants-plaintiffs were held to have no *locus standi* to institute or maintain the suit. Consequently, there arises no substantial question of law warranting interference by this Court in the concurrent judgments of the Courts below. The appeal, therefore, being devoid of merit, stands dismissed.

7. In view of the dismissal of the main appeal, all pending miscellaneous applications, if any, are rendered infructuous and are accordingly disposed of.

**16.09.2025**  
Gaurav Sorot

**( VIRINDER AGGARWAL )**  
**JUDGE**

Whether reasoned / speaking?  
Whether reportable?

Yes / No  
Yes / No