



115

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

RSA-132-2022 (O&M)

Reserved on : 09.07.2025

Date of Decision : 21.07.2025

Nirmaljit Kaur

... Appellant(s)

VERSUS

Kewal Singh & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ranjit Sharma, Advocate for the appellant.

ALKA SARIN, J.

CM-278-C-2022

1. For the reasons mentioned therein, the application seeking condonation of delay of 288 days in filing the appeal is allowed and the delay of 288 days in filing the appeal is condoned.

RSA-132-2022

2. The present appeal has been preferred by the plaintiff-appellant challenging judgments and decrees dated 24.01.2017 and 20.01.2020 passed by the Trial Court and the First Appellate Court dismissing the suit filed by her.

3. Brief facts relevant to the present *lis* are that the plaintiff-appellant herein, namely, Nirmaljit Kaur filed a suit for declaration and permanent injunction averring therein that originally Gurlal Singh son of Surta Singh was owner to the extent of 1/4th share out of Khewat No.418. The total area of Khewat No.418 was 160 kanals 8 marlas out of which

Gurlal Singh was owner to the extent of 40 kanals 2 marlas and the defendant-respondents were owners to the extent of 20 kanals 1 marla. It was the case set up that the defendant-respondent Nos.3 to 5 had sold 10 marlas of land out of land comprised in Khewat No.418 Khatauni No.1117 and Khasra No.377 on 13.06.2008 to the defendant-respondent No.1 whereas their father and grandfather had themselves already sold 26 kanals out of the land meaning thereby the land sold by them was in excess of the share owned by them and despite that the mutation on the basis of sale deed dated 13.06.2008 was sanctioned. It was further averred that on 19.12.2007 Gurlal Singh had executed a sale deed qua which mutation No.24529 had been sanctioned in favour of the plaintiff-appellant and she had become owner of 5 kanals of land. It was further averred that Khasra No.377 was 5 kanals 10 marlas and out of 5 kanals 10 marlas Gurlal Singh, who was owner of 1/4th share in Khewat No.418, had sold 10 marlas of land to Kartar Singh son of Jaswant Singh and Harcharan Singh, Bhupinder Singh son of Puran Singh and their names had also been incorporated in the *jamabandi*. It was further contended that no possession was delivered to the defendant-respondent No.1 by the alleged vendors and that the alleged sale was illegal, null and void.

4. The defendant-respondent Nos.1 and 3 to 5 appeared and filed their written statement raising various preliminary objections regarding maintainability and the suit being bad for mis-joinder of necessary parties. On merits it was submitted that Gurlal Singh was actually the husband of Nirmaljit Kaur (plaintiff-appellant herein) and that she had wrongly mentioned herself as daughter of Harbhajan Singh. It was further the stand taken that Gurlal Singh was not the owner of land measuring 40 kanals 2

marlas as stated and that he actually had only 28 marlas in Khasra No.377. It was further the stand taken that the alleged sale deed dated 19.12.2007 was a result of collusion between the plaintiff-appellant and her husband – Gurlal Singh – and did not pass any title in favour of the plaintiff-appellant. It was further the stand taken that the defendant-respondent Nos.3 to 5 were owners in possession of the land measuring 10 marlas out of Khasra No.377 and that they had sold the same in favour of the defendant-respondent No.1 vide a sale deed dated 13.06.2008 and that they were fully competent to do so.

5. On the basis of pleadings of the parties, the following issues were framed :

1. Whether the plaintiff is entitled to declaration and permanent Injunction as prayed for ? OPP
2. Whether the suit is not legally maintainable ? OPD
3. Whether the suit is bad for non-joinder of necessary party ? OPD
4. Whether plaintiff has got no locus standi to file the present suit ? OPD
5. Relief.

6. The Trial Court dismissed the suit of the plaintiff-appellant vide the judgment and decree dated 24.01.2017. Aggrieved by the same, an appeal was preferred by the plaintiff-appellant before the First Appellate Court which appeal was also dismissed vide the judgment and decree dated 20.01.2020. Hence, the present regular second appeal.

7. Learned counsel for the plaintiff-appellant would contend that both the Courts have erred in dismissing the suit. It is urged that the defendant-respondent Nos.3 to 5 had sold in excess of their share and that

the sale deed in favour of the plaintiff-appellant was valid as her husband – Gurlal Singh – who had also stepped into the witness box as PW-2, had sold the property vide a sale deed dated 19.12.2007 (Ex.P1) in favour of the plaintiff-appellant and a mutation was also sanctioned in this regard. It is further the contention of the learned counsel that the sale deed stood duly proved by the attesting witness - Parkash Singh (PW4), the deed writer - Narinder Kumar (PW3) and Rohit Kumar, Clerk of Sub-Registrar (PW5). It is further contented that both the Courts have ignored the fact that the sale deed was duly proved in accordance with law and, hence, the suit ought to have been decreed.

8. I have heard the learned counsel for the plaintiff-appellant.

9. In the present case though the sale deed has been proved, however, the title of the vendor has not been held to be proved by both the Courts. The sale deed Ex.P1 reveals that the property sold vide the said sale deed is 5 kanals comprised in Khasra No.377 situated in the area of Sultanwind Sub Urban Taraf Mahal II, Tehsil and District Amritsar by Gurlal Singh by stating that he had $\frac{3}{4}$ th share and being attorney holder of Balbir Kaur and Gurcharajit Singh having $\frac{1}{4}$ th share on the basis of family partition in favour of the plaintiff-appellant. *Jamabandi* (Ex.P4) reveals that Khasra No.377 comprises of an area measuring 5 kanals 10 marlas and besides Gurlal Singh, there are other co-sharers and the share of Gurlal Singh has been depicted as being $\frac{1}{4}$ th share, however, in the sale deed dated 19.12.2007 (Ex.P1) the share of Gurlal Singh has been depicted as being $\frac{3}{4}$ th. Learned counsel for the plaintiff-appellant has not been able to show any document depicting that Gurlal Singh was the owner of $\frac{3}{4}$ share of 5 kanals which he allegedly sold by way of the sale deed dated 19.12.2007

Ex.P1 in favour of the plaintiff-appellant. Further still, the learned counsel for the plaintiff-appellant has not been able to convince this Court that the defendant-respondent Nos.3 to 5 had sold in excess of their share as depicted in *jamabandi* (Ex.P4). Both the Courts have concurrently found that after the sale deed Ex.P1 was executed, 10 marlas of land remained and the vendors Sukhdev Singh, Sarabjit Singh and Major Singh were shown as co-sharers to the extent of 1/8th share and they had sold 10 marlas of the said land in favour of the defendant-respondent No.1 and, hence, the sale was held to be not illegal. In the absence of any cogent evidence to depict that the defendant-respondent Nos.3 to 5 had sold in excess of their share to the defendant-respondent No.1, no fault can be found with the judgments and decrees passed by both the Courts.

10. In view of the discussion above, no question of law, much less any substantial question of law, arises for determination by this Court in the present case. The present appeal is wholly devoid of any merit and is accordingly dismissed. Pending applications, if any, also stand disposed off.

21.07.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO