



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1. RSA-1066-2000 (O&M)
Date of decision: 08.04.2025

SHER KAUR (DECEASED) THROUGH LRS. & ORS.

..Appellants

Versus

KIRPAL SINGH (DECEASED) THROUGH LRS & ORS

..Respondents

2. RSA-4844-2003 (O&M)

SHER KAUR & ORS.

..Appellants

Versus

KIRPAL SINGH (DECEASED) THROUGH LRS & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arvind Mittal, Advocate
Mr. Jaivir Singh, Advocate
Mr. Sarvjeet Singh Thakur, Advocate
for the appellant(s) (in both the appeals).

Mr. Surinder Dhull, Advocate
for respondents No. 1, 9, 10 and 11 (in RSA-4844-2003).

Mr. G.S. Punia, Senior Advocate with
Ms. Harveen Kaur, Advocate
for respondent No.2 (in RSA-1066-2000).

Mr. Ajaib Singh, Advocate
for respondents No. 3 to 5 (in RSA-4844-2003).

ANIL KSHETARPAL, J(Oral)

I. Brief Facts:

1. With the consent of learned counsel for the parties, two connected regular second appeals i.e. RSA-1066-2000 and RSA-4844-2003, shall stand disposed of by this common order.



2. On 28.03.2025, the following order was passed:-

“RSA-1066-2000

The defendants assail the correctness of the First Appellate Court's judgment which in turn has reversed the judgment of the trial Court.

The parties to this litigation are the members of the same family. Sh. Sawan Singh and Sh. Gurdial Singh were brothers. Sh. Sawan Singh married twice. Firstly with Smt. Sher Kaur and subsequently, with Smt. Isher Kaur. From Smt. Sher Kaur, he had one son and two daughters, namely, Karnail Singh @ Jaswant Singh, Smt. Amarjeet Kaur and Smt. Baljit Kaur. Smt. Isher Kaur gave birth to three sons and three daughters, namely, Sh. Kirpal Singh etc. Sh. Sawan Singh at one stage, suffered a decree in favour of Smt. Isher Kaur and her children, which was the subject matter of challenge in the suit. Ultimately, the parties entered into a settlement when the appeal was pending in the High Court. A compromise deed was executed on 21.11.1983, which was registered on 22.11.1983. As per the aforesaid settlement, 120 bighas and 15 biswas fell to the share of Smt. Isher Kaur and her children, whereas, 42 bighas fell to the share of Smt. Sher Kaur and her children.

Learned counsel representing the appellants submits that children and grand children of Sh. Gurdial Singh are also owners of half share in the suit property. He submits that hence, it is not possible to enforce the settlement dated 21.11.1983.

Learned counsel representing the respondents prays for a short accommodation.

RSA-4844-2003

It has been brought to the notice of the Court that RSA-4844-2003 is with respect to the 'bara' and vacant space between the same parties.

List, in the urgent list, on 08.04.2025.

A photocopy of this order be placed on the file of the other connected case.”

3. RSA-1066-2000 has been filed by the defendants to assail the correctness of First Appellate Court's judgment, which in turn has reversed the judgment of the trial Court. As already noticed, Sh. Sawan Singh was predecessor in interest of the parties. He was owner of 162 bighas and 15 biswas of land, which was in two parts. Parcel of 83 bighas and 11 biswas was exclusively owned by him, whereas, he was owner to the extent of land measuring 79 bighas and 4 biswas, being a co-sharer in land measuring 158



bighas and 8 biswas. During his lifetime, he suffered a consent decree on 27.04.1970 in favour of his sons Sh. Jaswant Singh, Sh. Kulwant Singh and Sh. Kirpal Singh from Smt. Ishar Kaur, which was subject matter of challenge in a civil suit. The trial Court dismissed the suit, however, the First Appellate Court accepted the appeal. During the pendency of RSA-2608-1979, the parties entered into a deed of settlement and partition dated 21.11.1983, which also got registered. According to the aforesaid settlement, 83 bighas and 11 biswas exclusively owned by Sh. Sawan Singh + (plus) 37 bighas and 4 biswas out of land measuring 158 bighas and 8 biswas came to the share of the plaintiffs, whereas, the defendants were given 42 bighas out of land measuring 158 bighas and 8 biswas. The plaintiffs filed a suit for declaration that they are owners of the property, which fell to their share as per the registered settlement deed dated 22.11.1983. Unfortunately, the trial Court dismissed the suit, however, the First Appellate Court decreed their suit.

II. Arguments addressed:

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. Learned counsel for the appellants while referring to the settlement deed submits that same is not workable or implementable because it is vague and lacks clarity. He submits that such settlement, which is not implementable should be ignored and the present suit was filed beyond the prescribed period of limitation because the suit was filed on 03.02.1994, whereas, the period of limitation began to run from the date of settlement i.e. 22.11.1983.



6. On the other hand, learned counsel for respondents (plaintiffs) relied upon the following deposition of DW-1 Sh. Karnail Singh:-

“Isher Kaur and others plaintiffs had filed appeal against the judgment and decree of Additional District Judge Patiala in the court of Punjab and Haryana High Court, Chandigarh. That case was regarding agricultural land measuring about 162 bighas. It is correct that plaintiff and we defendants compromised regarding that land out of Court. No partition deed was executed according to that compromise. However, my signature were obtained on a blank paper and do not know what matter was written on that paper.....

It is correct that plaintiffs are owners to the extent of 120 bighas 15 biswa and we are owners to the extent of 42 bighas but the plaintiffs want to grab this land also.”

III. Analysis and Discussion:

7. This Court has considered the submissions of learned counsel for the parties.

8. The parties to the litigation belong to same family. They entered into a registered settlement on 22.11.1983, which was subject to the result of the appeal filed by Sh. Tara Singh. The appeal filed by Tara Singh was decided on 07.05.1992. Within a period of less than 2 years, the plaintiffs filed the suit on 03.02.1994. The period of limitation will not begin to run from the date of settlement but will begin to run from the date the cause of action accrued in favour of the plaintiffs, i.e. on 07.05.1992 when Sh. Tara Singh's suit was decided.

9. With regard to first submission, it may be noted that deed of settlement has already been entered into the revenue record and the property has been entered in the revenue record in the name of respective parties as per the settlement. Moreover, a registered settlement deed arrived at between the parties cannot be ignored on the ground that one party alleges that settlement is vague. On careful reading of deed of settlement, it is evident



that the parties entered into settlement defining their respective share by referring to khewat numbers. Moreover, this Court does not intend to permit the appellant to make out a new case for the first time in second appeal

IV. Decision:

10. Keeping in view the aforesaid facts, there is no ground to interfere in RSA-1066-2000.

11. Dismissed.

RSA-4844-2003

I. Brief facts:

12. This appeal is with respect to the land, which is known as ‘bara’ and vacant site. Admittedly, the suit properties are not a part of the settlement. The suit properties will be inherited by class I heirs as per the natural succession. Both the widows of Sh. Sawan Singh will jointly get one share, whereas, remaining six children will get 1/7th share each. In other words, the plaintiffs would get 3 and ½ (half) share, whereas, the defendants will get 6 and ½ (half) share in the aforesaid property. The trial Court has decreed the plaintiffs suit, however, the First Appellate Court has dismissed the suit on the ground that the suit for simple declaration is not maintainable.

13. Learned counsel for the appellants has drawn the attention of the Court to order dated 25.03.2008, passed by the Court to the following effect:-

“This is an application filed under Order 39 Rules 1 and 2 of the Code of Civil Procedure read with Section 151 of the Code of Civil Procedure for restraining the respondents from raising construction and changing the nature of the property in dispute.

Reply has been filed on behalf of respondents No. 2 to 5 in the Court today.

Learned counsel for the applicant/appellants states that the appellants would be satisfied, if any construction



raised is ordered to be subject to the decision of the appeal. Learned counsel for the respondents have no objection to the same.

Accordingly, it is ordered that any construction raised over the property in dispute during the pendency of the appeal shall be subject to the final outcome of the appeal.

C.M. stands disposed of.”

14. Sh. Ajaib Singh, Advocate, has informed the Court that Sh. Gurbax Singh (defendant) has died but his legal representatives are already on record namely Sh. Bahadur Singh, Sh. Harnek Singh, Sh. Paramjeet Singh and Sh. Tara Singh. He further submits respondent No.4 to 6 have constructed their houses on the suit property. He also submits that Sh. Gurbax Singh was a bonafide purchaser pursuant to the agreement to sell executed by defendant No.6 to 12. It is evident that defendant No.6 to 12 have no right to sell plaintiffs' share. The plaintiffs are co-owners to the extent of 7/20th share in the property involved in Civil Suit No.1007 of 17.05.1993.

II. Analysis and Discussion:

15. It is evident that the parties are co-sharers in the suit property left behind by Sh. Sawan Singh. In a suit for declaration, their respective shares would be determined, which can be divided by metes and bounds by seeking its partition.

III. Decision:

16. Keeping in view the aforesaid discussion, RSA-4844-2003 is allowed and the plaintiffs are declared owners to the extent of 7/20th share with respect to the suit property involved in Civil Suit No.1007 of 17.05.1993.



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

April 08th, 2025

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(ANIL KSHETARPAL)
JUDGE

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