



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

**RSA No.4924 of 1999 (O&M)**

**Date of Order:21.04.2025**

**Sher Singh (deceased) through LR's**

**.Appellant**

**Versus**

**Surjeet Kaur and others**

**..Respondents**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. Hem Raj Bhardwaj, Advocate  
for the appellant.**

**Mr. Gurpreet Singh Gurna, Advocate  
Ms. Harpreet Kaur Gill, Advocate  
for respondent nos.3,4,5 and 9.**

**ANIL KSHETARPAL, JUDGE (Oral)**

**I. BRIEF FACTS:-**

1. The plaintiff assails the correctness of the First Appellate Court's judgment which in turn has modified the judgment and decree passed by the trial court.

2. Plaintiff-Sher Singh is son of Nihal Singh son of Sunder Singh, the common ancestor of the parties was Sunder Singh, who had five sons, namely, Gurdial Singh, Nihal Singh, Norang Singh, Gurdev Singh and Kapoor Singh. Lachhman Singh, Paramjit Singh and Amarjit Singh, minor sons of Piara Singh son of Nihal Singh and Surjit Kaur widow of Piara Singh filed a civil suit against Nihal Singh, which was decreed on 13.02.1991 as Nihal Singh admitted the plaintiff's claim. In other words, Nihal Singh suffered a decree in favour of his daughter-in-law and grand



children. The plaintiff claims that the suit property located in two villages, namely, Ramgarh (123 bighas and 8 biswas) and Aldadpur (78 kanals and 11 marlas) is Joint Hindu Family Coparcenary Property.

3. Norang Singh died issueless. His property devolved upon his three brothers, who were alive at the time of death of Norang Singh, namely, Nihal Singh, Kapoor Singh and Gurdev Singh.

4. The suit was contested by the defendants. The trial court upon appreciation of the evidence, decreed the suit and declared that the judgment and decree dated 13.02.1991 and Will dated 10.12.1992 is not binding upon the plaintiff's rights.

5. The defendants including Nihal Singh filed the first appeal. The First Appellate Court found that the property at village Ramgarh i.e. 123 bighas and 8 biswas is Joint Hindu Family Coparcenary property, whereas the property at village Aldadpur measuring 78 kanals and 11 marlas was purchased by Nihal Singh in the year 1950. Thus, the decree passed by the trial court was modified and the suit filed by the plaintiff qua the property located in village Aldadpur was dismissed.

## II. ARGUMENTS ADDRESSED:-

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book as well as the requisitioned record.

7. The learned counsel representing the appellant submits that the property at village Aldadpur was purchased with the earnings from Joint Hindu Family Coparcenary property located in village Ramgarh because the family had no other source of income. Hence, the First Appellate Court has



erred in modifying the decree.

8. Per contra, the learned counsel representing the respondents submits that the plaintiff has not produced any documentary evidence to prove that the property was purchased by Nihal Singh from the earnings of the land located in village Ramgarh.

### III. ANALYSIS AND DISCUSSION:-

9. This court has considered the submissions of the learned counsel representing the parties

10. It is evident that in the year 1950, Nihal Singh purchased 78 kanals and 11 marlas land, whereas his brother Norang Singh purchased another parcel of land. Both the brothers purchased in total 117 kanals and 16 marlas land.

11. It was for the plaintiff to prove that the property at village Aldadpur was purchased by Nihal Singh from the earnings of land located in village Ramgarh. He has failed to produce any accounts books to prove the same. Moreover, it is proved on record that another parcel of land was purchased by Norang Singh. Nihal Singh was not the karta of the family. The onus lay upon the plaintiff to prove that the property purchased in village Aldadpur was from the income earned by the family from the coparcenary agricultural land located in village Ramgarh. He was required to produce the cogent evidence in this regard.

### IV. DECISION:-

12. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

13. Dismissed.



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

(ANIL KSHETARPAL)  
JUDGE

April 21, 2025  
nt

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