

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****118****Date of decision: 26.11.2025****RSA-2101-2022(O&M)****Babli****...Appellant(s)****Vs.****Rangi Ram (Deceased) through LRs & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Ashok Arora, Advocate
for the appellant.

*********NIDHI GUPTA, J.**

Present Second Appeal has been filed by the plaintiff against the concurrent judgments and decrees of the Id. Courts below whereby suit of the appellant for declaration, has been dismissed by both the Courts below.

2. Brief facts of the case are that the appellant/plaintiff is the daughter of defendant No.1; defendant No.2 is the sister-in-law/Bhabhi of the plaintiff; and defendant No.3 is the nephew/Bhatija/son of brother, of the plaintiff. The plaintiff had filed the present suit seeking declaration to the effect that the Release Deed No.4271 dated 05.07.2007 executed and got registered by the defendant No.1 in favour of the son of defendant-respondent No.2 namely late Kamal and defendant-respondent No.3 in respect of suit land is illegal, null and void and therefore liable to be set aside.



The plaintiff had also prayed for consequential relief of permanent injunction that defendants No.2 and 3 be restrained from selling and alienating suit land.

3. Upon appraisal of pleadings and oral & documentary evidence adduced by the parties, the learned Civil Judge (Junior Division), Hisar dismissed the suit of the plaintiff vide judgment and decree dated 20.09.2016. The Civil appeal filed by the plaintiff was also dismissed by the learned Additional District Judge, Hisar vide judgment and decree dated 08.03.2022. Hence, present Second Appeal by the plaintiff.

4. It is inter alia submitted by learned counsel for the plaintiff that defendant No.1 had inherited the suit land measuring 16 kanal 8 marla from his father Neki Ram in 1972. Therefore, suit land was ancestral and coparcenary in the hands of defendant No.1. As the suit land was ancestral, the defendant No.1 was not competent to execute the impugned Release Deed. It is submitted that the plaintiff is 6 sisters and 3 brothers. Her brother Anoop had died almost 20 years ago. His wife/defendant no.2, had solemnized second marriage with Ranbir. Her other brother Dayanand had also died, and his son Dharampal had already got agricultural share of sister of defendant No.1. Defendant No.3 is the son of Krishan, who is third brother of the appellant. It is submitted that signatures of the defendant No.1 were taken by the defendants No.2 and 3 on the pretext that the entire land was being partitioned among all family members. It is contended that the Release Deed was never read over and explained to defendant No.1. Moreover,



defendant No.1 was 80 years old at the time of execution of Release Deed. As such, he was not capable of understanding the same. Thereafter, defendants No.2 and 3 had illegally got Mutation executed in their favour.

5. Ld. Counsel for the appellant further submits that both the learned Courts below have erred while passing the impugned judgements and decrees by not considering the fact that the plaintiff along with other members of the Joint Hindu Family have pre-existing rights in the co-parcenary property; and by executing the impugned release deed bearing No. 4271 dated 05.07.2007 in favour of only Kamal (son of defendant No. 2) and defendant No. 3 by the defendant No. 1/ Karta of the Joint Hindu Family, leaving the remaining co-parceners, have been deprived them from their pre-existing rights in the co-parcenary property.

6. It is contended that the observation of the learned Courts below that no evidence has been adduced on file by the plaintiff to show how Neki Ram, father of the defendant No. 1 came to be the owner in possession of the suit property, is wrong. It is submitted that the plaintiff has very well proved on the record by adducing cogent and reliable evidence in the form of mutation No. 374 dated 17.05.1935 of village Devan and mutation No. 359 dated 09.05.1935 pertaining to village Muklan that Neki Ram inherited the suit property from his father Udey son of Rakha. Further it has also been proved by the plaintiff that after the death of Neki, the suit land had been inherited by defendant No. 1 by adducing relevant



revenue records in form of Ex.P13 to Ex.P14/1 and Ex. P18 to Ex. P19/1. However, the learned lower Appellate Court has wrongly and illegally dismissed the application of Plaintiff under Order XLI Rule 27 of Code of Civil Procedure and has erred by not taking on record the aforesaid mutations No. 374 and 359.

7. Ld. Counsel for the plaintiff further submits that both the learned Courts below, while passing the impugned judgments and decrees have not appreciated the evidence in right perspective. It is argued that from the above facts, it stands established that the suit land was ancestral and coparcenary property in the hands of defendant No.1 Rangi Ram. Therefore, he was not competent to execute the release deed No. 4271 dated 05.07.2007 i.e. Ex.P23 in favour of Kamal son of defendant No. 2, and defendant No.3 in respect of the suit land. The plaintiff being daughter of defendant No.1 as well as a coparcener in the Joint Hindu Family property is entitled to inherit the suit land to the extent of her share.

8. Ld. Counsel lastly reiterates that the Courts below have erred by not considering the fact that on the date of execution of alleged release deed, the defendant No.1 was more than 80 years of age and was incapable of understanding the contents of impugned release deed. Otherwise also, the contents of impugned release deed were never read over and explained to defendant No.1. He was taken to the office of Sub Registrar, Hisar by Krishan, father of defendant No.3 on the pretext that the entire suit land is



being partitioned among all the family members. Therefore, the impugned release deed is a result of fraud and misrepresentation.

9. It is accordingly prayed that the impugned judgments and decrees be set aside; and the present appeal be allowed; and suit of the plaintiff be decreed as prayed for.

10. No other argument is made on behalf of the appellant.

11. I have heard learned counsel for the appellant and perused the case file in great detail. I find no merit in the submissions advanced on behalf of learned counsel for the appellant.

12. Perusal of record shows that the plaintiff has miserably failed to establish the ancestral nature of the suit property as alleged. A perusal of Ex.P13/1, which is the copy of Jamabandi for the year 1955-56, shows that Neki Ram, father of defendant No.1 Rangi Ram was owner in possession along with his brother; and after the death of Neki Ram, the suit land was devolved upon defendant No.1 vide Mutation dated 30.08.1960 (Ex.P14/1). Record also establishes that defendant No.1 had inherited part of the suit property from his mother by way of Mutation No.1346 dated 18.01.2010. Thus, the appellant had failed to prove that suit property devolved upon defendant No.1 through three male lineal descendants; and it was established that suit property was self-acquired. Therefore, defendant No.1 was fully competent to execute the Release Deed (Ex.P23).



13. Even allegation of the appellant that the said Release Deed was a result of fraud, is negated from the fact that the said Release Deed (Ex.P23) was got registered in the Office of Sub-Registrar. Moreover, defendant No.1 has not denied his signature on the Release Deed dated 05.07.2007. Furthermore, defendant No.2 has placed on record copy of written statement (Ex.DW2/D) filed by defendant No.1 in Civil Suit No.413 of 2007 (as defendant No.3 in the said suit) wherein he has specifically mentioned that the Release Deed dated 05.07.2007 (Ex.P23) was executed by defendant No.1 with his consent and he was not under the influence of anyone at the time of execution of the said Release Deed.

14. The appellant has sought to prove the ancestral nature of the suit land by placing on record the Mutation No.359 dated 09.05.1935 and Mutation No.374 dated 17.05.1935 by way of additional evidence before the learned 1st Appellate Court to prove that Neki Ram, father of defendant No.1 had inherited the suit property from his father Uday son of Rakha. However, record reveals that the said application of the appellant has been dismissed by the learned Additional District Judge, Hisar vide speaking order dated 08.03.2022 (Annexure A1) on the following grounds:

“6. The documents sought to be produced in additional evidence pertains to the year 1935 and were within reach of the appellant-plaintiff to be produced in her evidence. Therefore, at this stage, the appellant-plaintiff cannot be allowed to fill up lacuna in her case. Moreover, these mutations simply show that father of respondent-



defendant No.1 inherited part of the suit land from his grand-father. Therefore, still said documents will not be able to prove ancestral character of the suit property. Hence, finding no merits in the application, the same stands dismissed."

15. Ld. Counsel for the appellant is unable to dispute or controvert the above said findings. Even otherwise, the Hon'ble Supreme Court in ***M/s. Shivali Enterprises v. Godawari (Deceased) (SC): Law Finder Doc Id # 2034559***; has held that this Court in 2nd Appeal, has limited jurisdiction to interfere in the concurrent findings. It is held as under:-

*"14. This Court, in the case of **Randhir Kaur v. Prithvi Pal Singh and Others (2019) 17 SCC 71**, after considering the scope of interference under the old section 100 of the Civil Procedure Code, 1908 (for short "CPC") and Section 41 of the Punjab Act, has observed thus:*

"15. A perusal of the aforesaid judgments would show that the jurisdiction in second appeal is not to interfere with the findings of fact on the ground that findings are erroneous, however, gross or inexcusable the error may seem to be. The findings of fact will also include the findings on the basis of documentary evidence. The jurisdiction to interfere in the second appeal is only where there is an error in law or procedure and not merely an error on a question of fact."

16. Keeping in view the above-said factual and legal position, the present appeal stands **dismissed**.

17. Pending application(s) if any also stand(s) disposed of.

26.11.2025
Sunena

(Nidhi Gupta)
Judge

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