

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****RSA-1174-2024 (O&M)****Date of Decision : 10.09.2025**

Harwinder Singh

... Appellant

Versus

Kuldeep Singh and Others

... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. N.S. Sodhi, Advocate for the appellant.

ALKA SARIN, J. (Oral)

1. Present appeal has been filed by the plaintiff-appellant challenging the judgment and decree dated 01.02.2024 passed by the First Appellate Court reversing the judgment and decree dated 13.07.2023 passed by the Trial Court.

2. Briefly stated the facts relevant to the present *lis* are that the plaintiff-petitioner herein filed a suit for permanent injunction for restraining the defendant-respondents from interfering, dispossessing or encroaching upon any part of the land shown in red colour in the site plan bearing Khasra No.137//12, 19, 22, Khewat No.636/610, Khatauni No.90, as mentioned in the Jamabandi for the year 2017-18 situated in the area of village Mahla Kalan, Tehsil Baghapurana, District Moga. It was averred in the plaint that the plaintiff-appellant and his brother Lakhwinder Singh and mother Sukhdev Kaur are recorded as owners of 341/471 share i.e. 17 Kanals 1 Marla and the defendant-respondents are recorded as owners of 6 Kanals 10 Marlas i.e. 130/471 share. It was further averred in the plaint that earlier a civil suit was

filed regarding the property bearing Khasra No.137//22 against the defendant-respondents. However, the same was dismissed on the basis of a compromise effected on 25.07.2014 and as per the compromise Khasra No.137//22 fell into the share of plaintiff-appellant. The plaintiff-appellant has constructed his house and the defendant-respondents have constructed their house in the other portion of property bearing Khasra No.137//22. It was further averred that both parties are in possession of their respective shares. On notice, the defendant-respondents appeared and filed their written statement. It was the stand taken by the defendant-respondents that the parties were co-sharers in the suit property and no injunction could be granted against a co-sharer. It was further the stand taken that defendant No.3 – Thana Singh i.e. respondent No.4 herein and defendant-respondent No.1 – Kuldeep Singh are recorded owners in joint possession of the entire suit land i.e. 23 Kanals 11 Marlas and are therefore deemed to be in possession of every inch of the land, which includes the suit land. It was further the case that the mother of plaintiff-appellant, namely, Sukhdev Kaur sold land measuring 6 Kanals 10 Marlas from the joint property. First sale deed dated 18.06.2010 was executed by Sukhdev Kaur regarding land measuring 3 Kanals which is 60/471 share in favour of defendant No.3 (respondent No.4 herein). Similarly, a second sale deed dated 18.03.2014 was executed regarding land measuring 3 Kanals 10 Marlas which is 70/471 share in favour of defendant-respondent No.1 - Kuldeep Singh and defendant No.3 - Thana Singh (respondent No.4 herein). Since a specific share was transferred, the defendant-respondents have become co-sharer in the entire property. It was further the stand taken that the plaintiff-appellant has failed to prove his possession over the suit land and the suit land was still a joint property as no partition had taken place. Replication was filed.

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

- (i) Whether the plaintiff is entitled to the relief of permanent injunction as prayed for ? OPP
- (ii) Whether the suit is not maintainable ? OPD
- (iii) Relief.

4. The Trial Court decreed the suit vide judgment and decree dated 13.07.2023. Aggrieved by the same an appeal was preferred by the defendant-respondents which appeal was allowed by the First Appellate Court vide judgment and decree dated 01.02.2024. Hence, the present regular second appeal by the plaintiff-appellant.

5. Learned counsel for the plaintiff-appellant would contend that in the earlier suit a compromise had been entered into between the parties, which was produced on record as Ex.P2, and as per the said compromise the plaintiff-appellant is in possession of the suit property. It is further the contention that the said compromise was arrived at in the earlier case hence the appeal ought to have been dismissed by the First Appellate Court. Learned counsel for the plaintiff-appellant has further contended that Ex.P2 clearly reveals that as per the compromise the parties were put in separate possession of their respective shares.

6. Heard.

7. In the present case the Trial Court decreed the suit primarily on the basis of the site plan and the recital in the compromise (Ex.P2). The First Appellate Court while allowing the appeal has noticed that Ex.P2, the alleged compromise dated 25.07.2014, has not been proved in accordance with the law as none of the witnesses were examined and there is only the self-serving statement of the plaintiff-appellant in support of his claim that he was in exclusive possession of the suit property. Even today, during the course of arguments, learned counsel for the plaintiff-appellant was repeatedly asked to

co-relate the compromise to the earlier suit however, learned counsel for the plaintiff-appellant has failed to co-relate the same to the earlier suit. The order passed in the earlier suit on the basis of compromise dated 25.07.2014 only reveals that the plaintiff-appellant had suffered a statement that he had arrived at a compromise and that he did not want to pursue the suit and withdrew the same. There is not a word in the order that the said compromise was accepted by the defendant-respondents. Infact, though the counsel was present, even his statement was not recorded that the parties had compromised the matter. Further still, the order does not even state the date of the compromise or the contents thereof hence it is not a case where the suit was disposed in terms of the compromise. Learned counsel for the plaintiff-appellant has not been able to point to any cogent or reliable evidence to show that the compromise was acted upon or was accepted by the defendant-respondents. There is no reliable or cogent evidence to suggest that the plaintiff-appellant was in exclusive possession of the suit property. Admittedly, the parties are co-sharers in the suit property and the only remedy for a co-sharer is to file a suit for partition.

8. In view of the above, no fault can be found with the judgment and decree passed by the First Appellate Court. No question of law, much less any substantial question of law, arises for determination in the present case. The appeal, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

10.09.2025
jk

(ALKA SARIN)
JUDGE

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