

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

ESA-59-2015 (O&M)
Date of decision: 07.03.2025

GURINDER SINGH

..Appellant

Versus

SURJIT KAUR (DECEASED) THROUGH LR & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. D.S. Randhawa, Advocate
for the appellant.

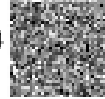
Mr. Nakul Sharma, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)**CM-2282-C-2025 & CM-2283-C-2025**

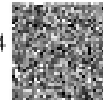
1. Allowed as prayed for.
2. Annexure A-9 and Annexure A-10, respectively, are taken on record.
3. CMs stand disposed of.

Main case

4. This execution second appeal has been filed to assail the correctness of concurrent orders passed by the Executing Court, which in appeal has been affirmed by the First Appellate Court while dismissing the objection petition filed by the purchaser (the appellant herein) of the property from all the decree holders including Smt. Surjit Kaur.
5. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.



6. Sh. Magi Singh had three daughters namely Smt. Harbhajan Kaur, Smt. Karnail Kaur and Smt. Surjit Kaur. Two separate suits were filed by these three sisters against Smt. Karamjit Kaur, who claimed to be the wife of Sh. Magi Singh. Smt. Karamjit Kaur in fact claimed that the suit property was gifted to her by Sh. Magi Singh. Both the suits were consolidated and decreed in favour of three daughters vide judgment and decree dated 05.02.1993. On 25.02.1993, all the three sisters namely Smt. Harbhajan Kaur, Smt. Karnail Kaur and Smt. Surjit Kaur entered into an agreement to sell agreeing to transfer their entire property measuring 132 bighas and 14 biswas in favour of the appellant and respondent No.7. In the meantime in the first appeal filed by Smt. Karamjit Kaur, all the three sisters relinquished land measuring 13 bighas and 10 biswas and a '*kothi*' in her favour. After settlement with Smt. Karamjit Kaur, Smt. Surjit Kaur entered into a fresh agreement to sell dated 26.07.1993 in favour of the appellant and respondent No.7 with respect to her 1/3rd share in 119 bighas and 4 biswas of land on receipt of the entire balance sale consideration of Rs.2,50,000/- after adjusting the amount received as earnest money under the previous agreement to sell. The possession of the land was also handed over to the appellant and respondent No.7, which includes Khasra No.573 (4 bighas-18 biswas). On the same day, Smt. Surjit Kaur executed an irrevocable general power of attorney in favour of Sh. Balwant Singh, the father of the appellant and respondent No.7. Smt. Karamjit Kaur, pursuant to the compromise, handed possession of 119 bighas and 4 biswas land to Smt. Harbhajan Kaur, Smt. Karnail Kaur and Smt. Surjit Kaur vide rapat No.1311 dated 10.05.1993. Smt. Surjit Kaur through her attorney, Sh. Balwant Singh, executed two sale deeds each of 16 bighas and 19 biswas land in favour of



the appellant and respondent No.7 on 08.04.1994 and 11.04.1994. Smt. Surjit Kaur filed a civil suit challenging the aforesaid two sale deeds, which was dismissed on 17.04.2002. The first appeal filed by Smt. Surjit Kaur was dismissed on 12.06.2003. She withdrew her second appeal on 15.11.2007. After the withdrawal of the regular second appeal, all the three sisters including Smt. Surjit Kaur executed sale deed No.3068 dated 19.12.2008 but registered on 22.12.2008 in favour of the appellant and respondent No.7 of land comprised in Khasra No.1729/537 (2 bigha), Khasra No.1730/573 (2 bigha). It is alleged by the appellant that due to bifurcation of land comprised in Khasra No.573 into two parts, inadvertently a small plot of the land measuring 18 biswa was not included in the sale deed registered on 22.12.2008. Now, Smt. Karnail Kaur and Smt. Harbhajan Kaur two remaining sisters of Smt. Surjit Kaur have executed sale deed on 21.02.2025 with respect to 2/3rd share of 18 biswas land i.e. 12 biswas in favour of the appellant and respondent No.7.

7. All the three sisters filed execution petition to execute the decree passed by the First Appellate Court after settlement with Smt. Karamjit Kaur. Objection petition was filed by the appellant and respondent No.7 when they were sought to be dispossessed. As already noticed, two sisters of Smt. Surjit Kaur namely Smt. Harbhajan Kaur and Smt. Karnail Kaur have already executed sale deed acknowledging appellant and respondent No.7 as owners of the property.

8. The decree passed by the Court in civil suit is in *personam* and not in *rem*. The appellant is not deriving any title from Smt. Karnail Kaur. It is the decree holders i.e. all three sisters, who have delivered possession of the entire property including land comprised in Khasra No.573 (4 bigha and



18 biswas) to the appellant and respondent No.7. In the execution petition filed to execute decree against the judgment debtor Smt. Karamjit Kaur, the appellant cannot be dispossessed. If Smt. Sujit Kaur claims that 6 biswas land comprised in Khasra No.573 was never agreed to be sold but appellant and respondent No.7 have wrongly entered possession, she may have her remedy in accordance with law.

9. Consequently, the orders passed by both the Courts below are set aside and objections filed by the appellant and respondent No.7 are sustained and accepted.

10. With these observations, the appeal is allowed.

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

March 07th, 2025

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(ANIL KSHETARPAL)
JUDGE

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