

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****213****Date of decision: 26.11.2025****RSA-2622-2012(O&M)****Jaspal Singh****...Appellant(s)****Vs.****Balihar Singh & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Anil Kumar Garg, Advocate
for the appellant.

Mr. Prateek Sharma, Advocate for
Mr. S.K. Jain, Advocate
for the respondents.

NIDHI GUPTA, J.

The defendant No.1 is in second appeal against the concurrent judgments and decrees of the learned Courts below whereby suit for partition filed by the plaintiffs/respondents No.1 and 2 herein, has been decreed by both the Courts below.

2. Brief facts of the case are that plaintiff No.1, and defendants No.1 to 4 are real brothers; whereas plaintiff No.2, defendant No.5 and pro-forma defendants No.6 and 7 are their sisters all of them being the sons and daughters and Class-I legal heirs of late Sh. Gurbax Singh who had died on 06.04.2004. Gurbax Singh was the owner in possession of his landed property and also the suit house marked as ABCD. It was pleaded in the



plaint that plaintiff No.1 had previously filed Civil Suit No.229 dated 02.06.2004 for permanent injunction, which was decided on 09.11.2004. In the said suit, compromise was effected between the parties pertaining to all moveable and immoveable properties, as per which it was decided that all the moveable and immoveable properties of Gurbaksh Singh shall be divided in 9 equal shares between all the sons and daughters. On the basis of the said Compromise, mutation of landed property was sanctioned in favour of all brothers and sisters as per their respective share vide order dated 08.11.2004 by the Collector, First Grade, Rupnagar. The house in question was owned and possessed and constructed by Gurbax Singh and after his death, the same was also required to be partitioned in equal shares between the parties. It has been averred that the plaintiffs had approached defendants to get partitioned the house in question, but defendants had been putting off the matter on one pretext or the other. Accordingly, present suit was filed by the plaintiffs on 28.10.2005.

3. Upon appraisal of pleadings and oral & documentary evidence adduced by the parties, the learned Additional Civil Judge (Senior Division), Ropar has decreed the suit of the plaintiffs vide judgment and decree dated 06.05.2010. The Civil Appeal filed by defendant No.1 was dismissed by the learned Additional District Judge, Ropar vide judgment and decree dated 22.02.2012. Hence, present Second Appeal by defendant No.1.



4. It is inter alia submitted by learned counsel for the appellant that both the Courts below have relied on the compromise which was entered into between the parties in the earlier suit, but both the Courts below did not take into consideration the compromise in toto. It is pointed out that as per the compromise the parties undertook not to file any case against each other. But the instant suit is filed by the respondent in contravention of the terms of the compromise whereas his claim is based on that compromise only. Both the Ld. Courts below have overlooked this fact that the instant suit is not for specific performance of the compromise rather the same is for possession. In such circumstances the Ld. Courts below should have dismissed the suit of the respondent no. 1 because it is in contravention of the terms of the compromise, on which his claim is based in the suit.

5. It is also submitted that the present suit is barred u/s 10 CPC. It is accordingly prayed that the present appeal be allowed, and the impugned judgments and decrees of the learned Courts below, be set aside.

6. Per contra, learned counsel for the respondents/plaintiffs opposes the submissions made on behalf of the appellant and submits that the impugned judgments and decrees suffer from no error; and the present appeal accordingly deserves to be dismissed.

7. No other argument is made on behalf of the parties.



8. I have heard learned counsel for the parties and perused the case file in great detail. I find no merit in the submissions advanced on behalf of learned counsel for the appellant/defendant No.1.

Brief facts of the case in chronological sequence are as follows:

1965: Gurbax Singh was owner in possession of agricultural land and the residential house marked ABCD. The Residential house in dispute was constructed by Gurbax Singh (as admitted by DW1/defendant no.1 Jaspal Singh).

10.10.1995: Civil Suit No.250 was filed and same was decided in favour of Balihar Singh/plaintiff no.1 herein.

23.12.1995: Decree in Civil Suit No.250 was formally passed.

06.04.2004: Gurbax Singh father of the parties expired.

02.06.2004: Suit 1/**Ex.P-2:** Respondent No.1/plaintiff No.1 Balihar Singh filed Civil Suit No.229 of 2004 titled “Balihar Singh Vs. Jaspal Singh & Others” regarding land and residential property.

27.09.2004: Suit 2/**Ex.P-3:** Appellant/defendant No.1 filed suit CS No.279 of 2004 for permanent injunction against plaintiffs/respondents No.1 and 2.

08.11.2004: – Compromise **Ex.P-1** was effected between the parties in Court in Civil Suit No.229/2004 regarding the entire estate of Gurbax Singh as per which all movable and immovable properties of Gurbax Singh were to be divided into nine equal shares amongst all legal heirs.



08.11.2004: Collector 1st Grade, Ropar, sanctioned mutation of agricultural land left by Gurbax Singh in favour of all nine heirs on basis of Compromise.

09.11.2004: **Ex.P-4** Both suits were disposed of in view of the above Compromise; on the basis of statement **Ex.P-5** recorded at time of compromise.

28.10.2005: Suit 3: Institution of Civil Suit No.RT-120 of 28.10.2005. Present partition suit filed by Balihar Singh and Ravinder Kaur for partition of house marked ABCD and for permanent injunction.

29.03.2006: Issues framed by trial Court.

06.05.2010: Trial Court judgment by Id. ACJ (Senior Division), Ropar: Suit decreed; house ABCD held to be part of compromise (Ex.P1); to be partitioned into 9 equal shares; permanent injunction granted.

13.08.2010: Civil Appeal No.14/13.08.2010 filed by Jaspal Singh (appellant/defendant No.1).

22.02.2012: Appellate Court Judgment by Id. ADJ, Ropar : Appeal dismissed; trial Court judgment affirmed; house held to be part of Compromise (Ex.P1) and subject to partition into nine equal shares.

9. It is admitted fact between the parties that Compromise dated 08.11.2004 (Ex.P1) was entered into between the parties. The argument of learned counsel for the appellant that present suit was barred under Section 10 CPC, is liable to be rejected as the learned trial Court has categorically recorded that perusal of the earlier judgments and earlier



plaint and written statement, show that plaintiffs of the present suit have nowhere admitted in the earlier suits that partition had already been effected regarding the residential house among the legal heirs of Gurbax Singh. Admittedly, partition of only agricultural land had been affected and mutation was also sanctioned. However, no partition of the house in question had taken place; whereas in terms of Compromise (Ex.P1), the suit house was also to be partitioned in 9 equal shares. The learned trial Court also found from the evidence of the parties that the defendants were threatening to alienate the house in question or transfer the same to some other persons. The trial Court has clearly recorded that the defendant is giving no importance to Ex.P1 as far as the residential house is concerned. Thus, suit of the plaintiffs could not held to be barred under Section 10 CPC.

10. The only issue between the parties was as to whether the suit house in dispute was also the subject matter of the Compromise (Ex.P1) or was the same kept out of the purview of Ex.P1. Perusal of Ex.P1 reveals that it is stated therein that all movable and immovable properties of Gurbax Singh were to be partitioned in 9 equal shares. Needless to say, the same would therefore also include the suit house. Moreover, DW1 Jaspal Singh/defendant No.1 has admitted in his cross-examination that *“the suit property is part of the Compromise.”* Needless to say, admission is the best evidence. In view of this fact, I find no error in the judgments and decrees



of the learned Courts below; whereby suit of the plaintiffs has been decreed holding the plaintiffs entitled to decree of partition.

11. The record further reveals that the entire estate of Gurbax Singh was pooled and divided equally among his nine legal heirs. Vide the Compromise dated 08.11.2004 (Ex.P1), all the parties unequivocally agreed that the entire estate of late Gurbax Singh, including all movable and immovable properties, whether held by him under any Will, decree, allotment, possession, construction or otherwise, shall stand pooled together and thereafter divided equally amongst all nine legal heirs. It was specifically settled that no individual heir shall claim any exclusive right on the basis of any Will, decree, prior litigation, earlier possession, or any separate arrangement, and that all such rights stood merged into the Compromise, which alone governs succession to the properties of late Gurbax Singh.

12. The core issue raised by the appellant was: "Whether the residential house ABCD was excluded from the compromise Ex.P1, and whether the defendant's earlier written statement (Ex.DC) shows that the house was not intended to be part of the pooled properties?" In this regard, both, the Trial Court as well as the First Appellate Court have returned concurrent findings of fact against the appellant. The courts relied upon the categorical and unequivocal admission made by the appellant himself (DW-1) in his cross-examination that "*a compromise was effected between the*



parties and the suit property is part of the compromise; all the property of my father was to be divided into nine equal shares; the house was constructed by my father in 1965 and the electric meter is also in his name".

This admission, coming from the mouth of the contesting defendant, completely demolishes the plea now sought to be raised that the residential house was not included in the compromise. Thus, both Courts simultaneously held that the compromise Ex.PI covers all movable and immovable properties of late Gurbax Singh without any exception, and that the appellant's attempt to rely on an earlier written statement (Ex.DC) was untenable because such earlier pleadings stood superseded by the compromise. Consequently, the findings of both courts are pure findings of fact based on the appellant's own admission, leaving no scope for interference in second appeal.

13. Furthermore, the Compromise Ex. P-1 uses broad unqualified language inasmuch as the said compromise expressly states that: "*All movable and immovable properties of late Gurbax Singh shall devolve upon all nine legal heirs in equal shares.*" There is no exception, reservation, or exclusion of the house. As per Section 92 Evidence Act, when the language of a compromise decree is categorical and unambiguous, no oral evidence or earlier pleading can be used to restrict it.

14. As noted above, the agricultural land was mutated based on the same compromise. A perusal of the Mutation order dated 08.11.2004



shows that the agricultural land was partitioned on the basis of Ex.P1. Appellant cannot selectively apply the compromise to land but deny its applicability to the house. Compromise must be implemented in entirety, not piece-meal. Since appellant acted upon the compromise by getting mutation of agricultural land in his 1/9th share, he is estopped from denying its validity vis-à-vis the house under Section 115 of Evidence Act.

15. Moreover, stand of the appellant is contradictory inasmuch as, in cross-examination, appellant has admitted that the suit house is part of the compromise. A litigant cannot "blow hot and cold" or approbate and reprobate. Courts rightly rejected such contradictory pleas.

16. The Id. Courts below have also correctly held that the plea of the appellant based on an earlier written statement Ex.DC is misconceived. Appellant has relied on his written statement in a previous injunction suit. However, it is correctly held that the previous pleadings merged into and were superseded by the compromise. Moreover, once compromise is executed, parties are bound only by terms of compromise, not prior assertions. Relying on Ex.DC (Written Statement) is legally impermissible compromise overrides all earlier litigation.

17. Last but not the least, it is established position in law that this Court has limited jurisdiction to interfere in concurrent findings of fact in Second Appeal. Even if the appellant disputes factual appreciation, both courts have concurrently held that the Suit House is part of compromise;



Compromise covers all properties; Appellant has admitted this fact. Under Section 100 CPC, concurrent findings based on evidence/admission cannot be disturbed unless perverse which appellant has not shown.

18. In view of the above discussion, present appeal is **dismissed**.

19. 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