

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

2025:PHHC:129811



120

RSA-1131-2020 (O&M)
Date of Decision: 16.09.2025

M/s Raj Kumar Aggarwal and Company

...Appellant

Versus

Krishan Kumar (since deceased) through LRs and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Abhinav Gupta, Advocate, for the appellant.

Mr. Hemant Sareen, Advocate, for respondent No.2.
(through Video Conference).

VIKRAM AGGARWAL, J

This is plaintiff's appeal against the judgment and decree dated 01.02.2018 passed by learned Additional District Judge, Jalandhar, dismissing the appeal against the judgment and decree dated 25.10.2012 passed by the Court of Civil Judge (Junior Division), Jalandhar, vide which the suit of the plaintiff was dismissed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3 The plaintiff filed a suit for declaration that the bifurcation of Khasra Numbers comprising in Khewats No.23,24

and 26, Khataunis No. 24, 36 and 41 (fully detailed in the plaint) by the revenue staff was totally incorrect, wrong, null and void and had no effect on the rights of the plaintiffs and that the order dated 26.03.2003 passed by S.D.M. Cum Collector No.1, Jalandhar was illegal, unlawful and wrong. Consequential relief of permanent injunction was also sought restraining the defendants from forcibly, illegally and unlawfully taking possession of the land detailed in the head note of the plaint.

4. It was averred that the plaintiff was a partnership concern registered with the Registrar of Firms, Punjab having four partners, namely, Raj Kumar, Ravi Kumar, Yogesh Kumar and Pawan Kumar. Later on, upon the death of Raj Kumar and Pawan Kumar, a fresh partnership was constituted on 28.12.2000 which was registered on 27.02.2003. The plaintiff claimed to have purchased land measuring 17 Kanals 3 Marlas from Inderpal, Hari Ram and Baldev Singh and sale deed in this regard was duly registered with the Joint Sub Registrar, Jalandhar. After the purchase of the said property, possession of the land was delivered to the plaintiff and at that time, the said land was *Gair Mumkin Bhatha*. Mutation No.380 was also sanctioned in favour of the plaintiff with the requisite entry made in the jamabandi for the year 1975-76.

5. The plaintiff claimed that that on account of a mistake of the revenue staff, entry of ownership of the plaintiff was not incorporated in the jamabandi for the year 1980-81 and the plaintiff was shown in possession of the property besides one Pritam Devi. Thereafter, the same entries were incorporated in

the jamabandis for the years 1985-86 and 1990-91 but in the year 1991, the possession of the plaintiff over 5/6th share of the suit land was recorded besides the names of other persons. In 1995-96, possession as per the jamabandi for the year 1985-86 was restored and the names of other persons shown in possession were deleted. In the jamabandi for the year 2000-2001, the bifurcation of the khasra numbers as mentioned in the head note of the plaint, was shown and on the basis thereof, the defendants wanted to take possession of the godowns of the plaintiff constructed on the suit land illegally and unlawfully.

6. The plaintiff filed a suit for permanent injunction against the defendants in respect of Khasra Nos.38/1/2, 38/2 and 38/1/1. An application for temporary injunction was dismissed by the trial Court and appeal there-against was also dismissed.

7. It was further claimed by the plaintiff that it had raised construction and had also sown eucalyptus trees over the suit land in 1978. Avinashi Lal (defendant No.2) filed a suit for permanent injunction against the plaintiff alleging therein that he had also purchased certain property, but the said suit was later on withdrawn by admitting the right of the plaintiff. It was further the case of the plaintiff that defendants had claimed that certain partition proceedings took place before the Assistant Collector 1st Grade, Jalandhar in 1978 and partition was effected on 09.03.1984, but the plaintiff was not made a party in the said proceedings, intentionally and willfully nor was informed about the pendency of the said proceedings. It was further averred that

no instrument of partition was framed nor the possession had been changed at the spot nor any new khewat/khatauni had been changed or separated. The partition had not been effected in the revenue record by metes and bounds and rather, possession continued to be that of shareholders among various co-owners. The S.D.M-cum-Collector, Jalandhar-II, vide order dated 29.09.2001 directed the parties to maintain status quo regarding possession. However, later on, the Collector dismissed the appeal on 26.03.2003 on the ground that mutation of the partition had been incorporated in the revenue record.

8. Separate written statements were filed by defendants No.1 and 2, whereas defendant No.3 was proceeded against *ex-parte*. In their written statements, defendants No.1 and 2 took preliminary objections regarding *locus standi*, the suit being barred by limitation, maintainability and estoppel. On merits, it was averred that though the plaintiff claimed to have purchased suit land measuring 17 Kanals 3 Marlas from Inderpal, Hari Ram and Baldev Singh, the said persons were not competent to sell the same. The execution of the sale deed was denied and it was asserted that even if the sale deed was proved, the same did not pass any title to the plaintiff. The name of the plaintiff could not be incorporated in the ownership column of jamabandi as the alleged vendors of the plaintiff were not recorded as the owners of the suit land in the revenue record and as such, they could not sell the said land. Bifurcation of the Khasra numbers, as alleged in the plaint, had been termed to be legal, the same having been done as a result of the partition proceedings. The

partition was effected by revenue officer on 09.03.1984 and the said proceedings were well within the knowledge of the plaintiff. The partition proceedings had been pending since 1976 and partition was effected on 09.03.1984 and that the appeal filed by the plaintiff was also rightly dismissed. It was further averred that the plaintiff had not preferred any appeal or revision against the order dated 26.03.2003 passed by the Collector and it could not now challenge the same by way of a civil suit.

9. Replication was filed by the plaintiff denying the averments made in the written statement and reiterating those made in the plaint.

10. From the pleadings of the parties, the following issues were framed:-

1. Whether the plaintiff is entitled to declaration as prayed for? OPP
2. Whether the plaintiff is entitled to the permanent injunction as prayer for? OPP
3. Whether the plaintiff is in possession of 17K-3M prayed for? OPP
4. Whether the plaintiff has got no locus standi to file the present suit? OPD
5. Whether suit is not maintainable in the present form? OPD
6. Whether the plaintiff is estopped from filing the present suit by his own act and conduct? OPD
7. Whether Civil Court has got no jurisdiction to set aside the partition order by revenue authorities? OPD
8. Whether suit is bad for non joinder of necessary parties? OPD
9. Relief.”

11. Parties led their respective evidence.

12. The trial Court dismissed the suit vide judgment and decree dated 25.10.2012. Appeal filed by the plaintiff was also dismissed vide judgment and decree dated 01.02.2018 passed by the first Appellate Court.

13. I have heard learned counsel for the parties and have also perused the record.

14. Learned counsel for the appellant submits that both Courts have failed to appreciate that the defendants had admitted the factum of sale of the suit land by Charan Das to Inderpal, Hari Ram and Baldev Singh as per the jamabandi for the year 1975-76 and further the sale of the suit land by the said persons to the plaintiff vide sale deed dated 14.01.1974 pursuant to which, the mutation was also sanctioned. It is further argued that even if said Charan Das had sold more than his share in the suit land, the said sale deed had never been challenged or set aside by any Court, which clearly indicated that the title of the vendors of the plaintiff was perfect. It is also argued that the Courts below have also not taken into consideration the finding recorded in the judgment and decree dated 30.04.1981 in the civil suit filed by Harbans Lal son of Bhagat Ram (brother of Charan Das).

15. Learned counsel for the appellant has further argued that both Courts have committed grave error while ignoring the factum of construction of godowns and their being rented out to Food Corporation of India (FCI). It is also argued that in any case, the factum of partition proceedings initiated in the year 1968 which had culminated on 09.03.1984, was never brought

to the notice of the plaintiff and his vendor(s). It is further argued that once the suit land was purchased by the plaintiff for valuable consideration, the defendants had no locus to continue the partition proceedings and after the sale of the suit land in favour of the plaintiff, the partition proceedings had become infructuous. It is further argued that while passing the impugned judgments and decrees, both Courts did not take into consideration the factum of withdrawal of the suit filed by defendant No.2-Avinashi Lal, on 31.07.1978.

16. On the other hand, learned counsel appearing for respondent No.2, while defending the impugned judgments and decrees passed by the Courts below, has submitted that both Courts have recorded concurrent findings of facts based on evidence on record and as such no interference is called for.

17. I have considered the submissions made by learned counsel for the parties.

18. Both Courts held that partition proceedings were proved to have been initiated in the year 1968 and were finally decided on 09.03.1984. The plaintiff had filed an appeal against the partition order before the Court of S.D.M Cum Collector, Jalandhar, which was dismissed on 26.03.2003. The plaintiff did not file any appeal against the said order, meaning thereby that the said proceedings had attained finality. Accordingly, the partition proceedings had been implemented and incorporated in the revenue record.

19. It was further found that the plaintiff had purchased the suit land vide sale deeds dated 14.01.1974 and 27.03.1978

(Exhibits P.4 and P.5), during the pendency of the partition proceedings. It was also found that the plaintiffs had failed to prove on record that any mutation had been sanctioned pursuant to the execution of the sale deed Exhibits P.4 and P.5. It was also found that the plaintiff had also failed to prove the ownership of his vendor(s) over the suit land, at the time of execution and registration of sale deed Ex.P-5.

20. Both Courts, therefore, recorded concurrent findings of facts on the basis of evidence led by the parties. It could not be shown that such findings suffer from any patent illegality which may warrant interference by this Court in the present Regular Second Appeal.

21. In view of the aforementioned facts and circumstances, I do not find any merit in the present appeal and the same is, accordingly, dismissed.

22. Pending application(s), if any, also stands disposed of.

(VIKRAM AGGARWAL)
JUDGE

16.09.2025
ds

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