



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
107+233

RSA-113-2016(O&M)
Date of decision: 06.11.2025

Pawan Saini

...Appellant(s)

Vs.

Ram Chander Saini & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. G.S. Virk, Advocate
for the appellant.

Mr. Deepak Girotra, Advocate
Mr. Chetan Sharma, Advocate
Mr. Prajwal Jaiswal, Advocate
for the respondents No.2 and 3.

NIDHI GUPTA, J.

The plaintiff is in second appeal against the concurrent judgments and decrees of the Courts below whereby suit filed by the appellant for partition of ancestral house, has been dismissed by both the Courts below.

2. Mr. G.S. Virk, Advocate appears on behalf of the appellant and files Memorandum of Appearance, which is taken on record.

3. The appellant had filed the plaint with the pleadings that Tara Chand, grandfather of the plaintiff was owner of suit house No.464 Ward No.18 situated at Arya Nagar, Saini Street, Rohtak/suit house. Defendant



No.1 is the father of the plaintiff; and defendants No.2 and 3 are the brothers of the plaintiff. It was averred that after death of Tara Chand, his sons namely Kirpa Ram, Ram Chander Saini (defendant No.1 and father of the plaintiff and the defendants No.2 and 3) and Satbir Saini came in possession of the suit house. They partitioned the said house amongst themselves. It was contended that the said partition was got recognised by all the three brothers in Civil Suit No.81 of 1987 by way of Settlement Deed (Ex.P4) wherein said compromise was recognised. Thereafter, the plaintiff had filed present suit on 22.02.2010 to seek partition of house in dispute which had fallen to share of his father/defendant No.1. The plaintiff is claiming 1/4th share therein. It was case of the plaintiff that house No.464 was their ancestral property which was inherited by his grandfather Tara Chand from his ancestors; and therefore, the plaintiff had a birthright therein.

4. Upon appraisal of pleadings and oral & documentary evidence adduced by the parties, the trial Court vide judgment and decree dated 22.05.2013 had dismissed the suit of the plaintiff with costs. The appeal filed by the plaintiff was dismissed by the First Appellate Court vide judgment and decree dated 04.08.2015. Hence, present second appeal by the plaintiff.

5. It is inter alia submitted by learned counsel for the appellant that the findings of learned trial court are based on the alleged relinquishment deed Ex.D1 allegedly executed by the appellant. He contended that in fact this writing was procured from the appellant under



threat of being falsely implicated in a false criminal case by the Incharge of Police Post - Arya Nagar at the instance of the defendants. He contended that this document cannot be read to show the relinquishment of the rights of the appellant in the ancestral property as this document was obtained by force. The appellant has immediately brought all the facts to the notice of his Commanding Officer vide application dated 06.03.2010. It is accordingly prayed that the impugned judgments and decrees of the learned courts below are based on an incorrect premise and can therefore not be sustained.

6. Per contra, learned counsel for the respondents/defendants refutes the submissions made on behalf of the appellant and submits that the judgments and decrees of the learned Courts below suffer from no error and present appeal deserves to be dismissed. It is submitted that the Civil Suit was prima facie not maintainable. Moreover, the appellant had failed to prove that the suit property was ancestral in nature. Accordingly, dismissal of the appeal is prayed for.

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

8. I have heard learned counsel and perused the case file in detail. I find no merit whatsoever in the submissions advanced on behalf of learned counsel for the appellant as the plaintiff has alleged the suit property to be ancestral in nature. It is the case of the appellant that the suit house was ancestral property of Tara Chand. To the contrary, it is the case of the defendants that the suit house was obtained by Ram Chander by virtue of



Civil Court decree (Ex.P5 and Ex.P6) passed in Civil Suit no.81 of 1987. The record further reveals that in the said suit, a Compromise Ex. D-1 was affected between the parties, as per which respective shares of the parties had been separated. Ex.D-1 not only bears the signatures of the plaintiff, but during cross-examination, the plaintiff has admitted the said Settlement Deed/Compromise (Ex.D1); and has further admitted that the Compromise (Ex.D1) is in his own handwriting. Moreover, the plaintiff has nowhere challenged the said Compromise or claimed that the same was written by any other person. The plaintiff has only asserted that his signatures were taken by force. However, no complaint was made by the plaintiff against any person in this regard. Even argument of the plaintiff that his signatures were taken by force does not inspire the confidence of this Court as admittedly the plaintiff is an educated person and serving in BSF on the rank of ASI. Thus, he cannot be coerced to act under pressure. Thus, Ex.D1 being admittedly in the handwriting of the plaintiff himself and admittedly bearing his signatures, therefore, proves that Family Settlement has been admitted by him. Moreover, in the said Compromise, it was specifically stated by the plaintiff that in the Family Settlement, the house in dispute had been given by his father to both his brothers/defendants No.2 and 3 herein.

9. Furthermore, it is settled proposition of law that suit cannot be filed by a son against his father for partition during the lifetime of the father. Thus, even if it is assumed that the plaintiff was having share in the suit



property and the same is still joint, yet the plaintiff cannot be held entitled for decree of partition as suit has been filed by plaintiff against his father/defendant No.1 who is Karta of the family. It is settled position of law that suit filed by a son against his father for partition is not maintainable.

10. Learned counsel for the appellant is unable to dispute or controvert the aforesaid facts, findings, and legal position. In view of the above, present appeal is **dismissed**.

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

06.11.2025
Sunena

(Nidhi Gupta)
Judge

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