



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

**Reserved on 6th of August, 2025
Pronounced on 4th November, 2025**

RSA No.4444 of 2016 (O&M)

Verinder and Vikram Singh HUF D-57, Defence Colony, New Delhi
....Appellant

Versus

The Secretary, Dera Radha Swami Satsang Beas
....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vikram Singh, Advocate
for the appellant.

Mr. Ritesh Khatri, Advocate and
Mr. Lovekesh Mehta, Advocate
for the respondent.

PANKAJ JAIN, J.

Plaintiff is in second appeal. For convenience, the parties hereinafter are referred to by their original position before the Court of the First Instance i.e., the appellant as plaintiff and the respondent as defendant.

2. Plaintiff filed suit seeking decree of declaration to the effect that the gift deed bearing No.3173/95 dated 11.09.1995 in favour of defendant is null, void and further direction to the defendant that the property comprised in Khewat No.142, Khatoni No.187, Khasra No.1327/256 measuring 16 Biswas be returned back to HUF of Brig. Verinder Singh and Vikram Singh.



3. As per the plaint, the suit land was allotted to Brig. Verinder Singh in lieu of the property left by him in Pakistan at the time of partition of the country in 1947. Brig. Verinder Singh executed sale deed *qua* land measuring 3 acres on 11.07.1975 in favour of defendant for a consideration of Rs.17,35,537/-. Later on, Brig. Verinder Singh executed gift deed bearing document No.3173/95, dated 11.09.1995 *qua* land measuring 16 Biswas in favour of defendant. As per the term of the gift deed, possession of 1/2 of the land was to be handed-over to the defendant. Defendant illegally installed barbed wire fence on the side adjacent to the land of Brig. Verinder Singh and blocked the passage of the plaintiff. Plaintiff claimed that there was a breach of contract in form of gift deed which renders the gift deed void. The same being without the consent of all the co-parceners and the property being a coparcenary, the gift deed is void.

4. Suit was contested by the defendant. It was denied that the plaintiff is a co-parcener or that the suit land is ancestral property of the plaintiff. As per the defendant, Brig. Verinder Singh executed registered sale deed *qua* land measuring 12 Bighas in favour of the defendant and has also executed a registered gift deed. Land is being utilized as a passage. Answering defendant has never refused the plaintiff for using the same.

5. Suit filed by the plaintiff was put to trial by the Court of the First Instance, framing following issues:

- “1. Whether the plaintiff is entitled to declaration to the effect that gift deed no.3173/95 dated 11.9.1995 executed by late



Brig. Verinder in favour of Dera Radha Swami Satsang Beas, is illegal, null and void? OPP

2. Whether the plaintiff is entitled to possession of the land measuring 16 Biswas comprised in Khewat no.142, Khatoni no.187, Khasra no.1327/256? OPP
3. Whether the suit of the plaintiff is not maintainable in its present form? OPD
4. Whether the suit of the plaintiff is bad for mis-joinder and non-joinder of necessary parties and cause of action? OPD
5. Whether the court has no jurisdiction to try the present suit? OPD
6. Whether the plaintiff is estopped from filing the present suit by his own act, conduct and acquiescence? OPD
7. Whether the suit has not been valued properly for the purposes of court fee and jurisdiction? OPD
8. Relief.”

6. While deciding Issues No.1, 2, 1-A, 2-A and 3-A, the Court of the First Instance concluded that though the plaintiff claims the suit land to be a joint Hindu family and a coparcenary property, but he has failed to adduce any cogent and convincing evidence to prove the same. Exhibit P-2, gift deed, was executed in the year 1995. The same was never challenged by Verinder Singh, the donor, during his lifetime. The same has been challenged after an inordinate delay of 12 years by the plaintiff. Accordingly, the Issues No. 1, 2, 1-A, 2-A and 3-A were decided against the plaintiff.

7. Unsuccessful plaintiff preferred appeal. Along with the appeal, appellant preferred application under Order XLI Rule 27 CPC. The Lower



Appellate Court has decided the appeal as well as the application under Order XLI Rule 27 CPC and dismissed the both, observing as under:

16. It is not in dispute that Brig. Virender Singh was owner in possession of suit land. It is also admitted on record that vide sale deed, Ex.P1, he sold land measuring 3 acres in favour of respondent. It is also proved on record that Virender Singh by way of gift deed, Ex.P2, gifted 16 guntha land for creating passage to the respondent. As per case set up by appellant his grandfather Balwant Singh was 17.10 standard acres land in village Talwandi Rahwalla, District Gujranwala, Pakistan. After his death in the year 1934 the land was inherited by father and uncle Surender Singh. Therefore, appellant being son constituted a coparcenary with his father and thus had a birth right in the suit property. In order to prove ancestral nature of land, appellant has tendered in evidence Form No. 34-A (Ex.P3) i.e. copy of application filed by his father before Income Tax authorities seeking permission to sell three acres of land to respondent. According to appellant, Ex.P3 shows the land to be of HUF consisting of appellant himself and his father. However, in his cross- examination, appellant admitted that it was for the first time in 1995 only that HUF was created by his father. He also admitted that consideration amount of Rs.1735537/- which his father received from sale of three acres of land in favour of respondent was deposited by him in his account only and not in account of HUF. By way of additional evidence, appellant has tried to prove that infact suit land is ancestral in nature. Appellate Court can permit taking of additional evidence if it fulfills parameters laid down under Order 41 Rule 27 C.P.C. or if the court considers that evidence sought to be produced is necessary for just decision of the case. In the case in hand, in the considered opinion of this court, appellant has failed to make out case, for invoking provisions of Order 41 Rule 27 CPC, granting him permission to lead evidence at appellate stage. It is not case of appellant that despite due diligence the documents were not in his knowledge or



he could not produce the same in trial court. Rather his case is that he was of the view that evidence led by him was sufficient to prove his case. Otherwise also evidence now sought to be produced is not necessary for just decision of the case as the documents nowhere prove that land in hand of father of appellant was ancestral in nature. Document i.e. Form No. 1-D-78 simply shows that father and uncle of appellant were having 17.10 acres land in village Talwandi Rahwalli Gujrawalan Pakistan in lieu of which they were allotted 13-3½ acres of land in village Kambohpora Karnal. Similarly, information received by him under Right to Information Act, 2005, i.e. Parcha claim also shows the same position. But the fact remains that the said documents nowhere show that father and uncle of appellant had in fact inherited land in village Talwandi Rahwalli, District Gujranwala Pakistan, from their father Balwant Singh, in lieu of which only they were allotted land in India after partition in village Kambohpora. The documents simply shows father and uncle of appellant to be co-owner of land.

17. As the appellant has failed to prove that the suit land was ancestral in nature, therefore, his father was fully competent to execute the gift deed in favour of respondent.

18. Coming to alleged violation of terms and conditions of gift deed, Ex.P2, appellant has failed to prove the same by leading any cogent evidence. Photographs Ex.PW2/B to J can not be taken into consideration as the same have not been proved in accordance with law.

8. Along with the appeal before this Court, an application under Order XLI Rule 27 CPC has been filed which has been heard along with the main appeal. The intent of the appellant behind filing of application under Order XLI Rule 27 CPC is to prove the ancestral nature of the property. This Court is of the opinion that even if the application filed by the appellant under Order XLI Rule 27 is allowed, the evidence sought to be brought on



record, does not advance the case of the plaintiff. Plaintiff is not sure as to whether the land in question is a coparcenary property or is a HUF property. The document in form of Form 1-D-78 for village Talwandi Rahwalli Gujrawalan, Punjab only shows that father and uncle of the appellant were owners to the extent of 17.10 acres of land and they were allotted 13-3½ acres of land in District Karnal. The said document does not show that the land travelled to the hands of the father of the plaintiff from his father, grand-father or great-grandfather. Pedigree table sought to be produced is not record of rights. The same has no presumption of truth attached thereto. Apart from that, the pedigree table shows the name of Mohinder Singh and not Verinder Singh father of the plaintiff.

9. In view of above, this Court finds that application under Order XLI Rule 27 CPC filed by the plaintiff/appellant is without any merit and has no bearing on the adjudication of the present appeal and the same is accordingly dismissed.

10. It has been held by the Courts below that the HUF was created by father of the plaintiff for the first time in the year 1995. Appellant has admitted the same in his cross-examination. It has also come on record that the entire sale consideration was received by Verinder Singh and was deposited in his account. The same never went to the account of HUF.

11. In view of above, this Court finds that in the absence of there being any evidence to prove the nature of the land to be coparcenary, the Courts below have rightly non-suited the plaintiff.



12.

So far as breach of term of the gift deed is concerned, the defendant(s) in their written statement have denied that they have any intent to stop the plaintiff from using the passage.
13.

In view of admitted position by the defendant, this Court finds that there is no reason to hold defendants guilty of breach of condition/term in the gift deed.
14.

In view of above, finding no merit in the present appeal, the same is ordered to be dismissed.
15.

Pending application, if any, shall also stands disposed off.

November 04, 2025

(Pankaj Jain)
Judge

Dpr

Whether speaking/reasoned : Yes

Whether reportable : No