

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115

RSA-305-2015 (O&M)
Date of decision: 03.03.2025

SURJIT SINGH & ORS.

..Appellants

Versus

MOHINDER KAUR (DECEASED) THROUGH LRS. ..Respondents

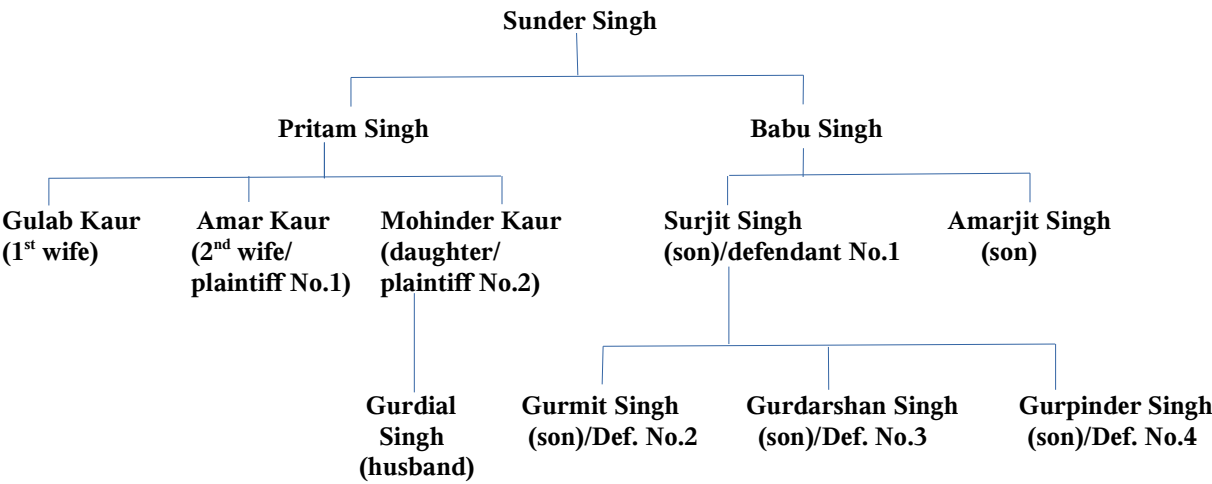
CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

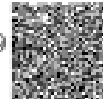
Present: Mr. Karamjit Singh Chahal, Advocate
for the appellants.

Mr. Parvinder Singh, Advocate
for respondent No.1(i).

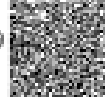
ANIL KSHETARPAL, J(Oral)

1. The defendants assail the correctness of concurrent findings of fact arrived at by the Courts below while decreeing plaintiffs’ suit for grant of decree of declaration to the effect that the plaintiffs are owners in possession of land measuring 3 bighas and 19 biswas out of land comprised in Khasra no.595 and 596 and the entries in the revenue record in the name of defendants showing them to be owner of 2 bighas and 17 biswas are totally wrong and illegal. The defendants are in fact owners of 1 bigha and 16 biswas out of land comprised in Khasra No.595 and 596.
2. The parties to the suit are related to each other in the following manner:-





3. The plaintiffs are Smt. Amar Kaur (widow), Smt. Mohinder Kaur (daughter) of Sh. Pritam Singh. The defendants-appellants are Sh. Surjit Singh and his children. They have a common ancestor namely Sh. Sunder Singh, who had two sons namely Sh. Pritam Singh and Sh. Babu Singh. Sh. Pritam Singh left behind a widow Smt. Amar Kaur and Smt. Mohinder Kaur, daughter. There was a previous round of litigation between the parties when two cross suits for decree of permanent injunction were filed with respect to the residential area comprised in Khasra No.596. The aforesaid suits were disposed of in terms of settlement arrived at between the parties on 17.12.1970, which is Ex.C-1 on the record. It was agreed that out of the residential area, Sh. Surjit Singh will be owner of half share located on Western side of the property, whereas, the plaintiffs would get remaining half share on Eastern side of the property, however, there was some area, which was left out of Khasra No.596. The total area of Khasra No.595 is 3 bighas and 1 biswas. After the decree for injunction on the basis of settlement was filed, an application under Order XXI Rule 32 of the Code of Civil Procedure, 1908, was filed by the plaintiffs or their predecessors alleging violation of injunction decree. The trial Court ordered conviction of the defendants, which in appeal was reversed by the Appellate Authority. However, under the garb of that order passed by the Appellate Authority, defendants got the half share of the entire property mutated in their favour including the agricultural land, that is how the suit was filed. Both the Courts have found that the aforesaid settlement was only qua compromise and not with regard to agricultural land. Hence, both the Courts found that there was merit in the plaintiffs' case.



4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with requisitioned record.

5. Learned counsel for the appellants submits that in fact the entire property was divided equally amongst the family members. He submits that the wall was to be constructed not only in the residential area but also in the land comprised in Khasra No.595. He submits that both the Courts have erred in overlooking the oral evidence.

6. This Court has considered the submissions of learned counsel for the parties.

7. There is a decree passed by the Court in two previous suits on the basis of family settlement, which is in writing and signed by the parties. On a careful reading of the deed of settlement, it is evident that the settlement was only qua constructed portion and not with regard to vacant or agricultural land. Hence, there is no merit in the appeal filed by the defendants.

8. Dismissed accordingly.

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

March 03rd, 2025

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**(ANIL KSHETARPAL)
JUDGE**

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