

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

**Reserved on 11th of February, 2026
Pronounced on 11th of May, 2026
Uploaded on 11th of May, 2026**

Whether only operative part of the judgment is pronounced? **No**
Whether full judgment is pronounced? **Yes**

RSA No.1178 of 1990 (O&M)

Bhagat Singh (since deceased) through LRs and others Appellants

Versus

Balihar Singh and others Respondents

CORAM: HON'BLE MR JUSTICE PANKAJ JAIN

Present: Mr. Digvijay Manchanda, Advocate for the appellant(s).

Mr. Mukul Sheoran, Advocate for
Mr. Keshav Pratap Singh, Advocate for the respondents.

PANKAJ JAIN, J.

Defendant No.1 is in second appeal.

2. For convenience, the parties hereinafter are referred to as by their original position before the Court of the First Instance, i.e., the appellant as defendant No.1, respondents No.1 and 2 as plaintiffs, respondents No.3 to 14 as respondents No.2 to 13.

3. Vide order dated 27.11.2018, respondents No.6 to 8 and 10 were ordered to be transposed as appellants in the present appeal.

4. Plaintiffs filed suit seeking decree of joint possession of suit land comprising of 2 different parcels of land. One situated at village Hansaron and another situated in village Ghataron.

5. As per the plaintiffs, the suit property is an ancestral coparcenary property inherited from their common ancestor namely Inder Singh. Their grandfather, i.e., defendant No.1 Bhagat Singh alienated portions of ancestral land vide sale deeds, dated 04.03.1976 and 08.09.1980 without there being any legal necessity. The alienation made by Bhagat Singh is not binding upon the right of the plaintiffs in the suit land being coparceners.

6. Suit was contested by defendant No.1. Defendant claimed that the property in his hands is a self-acquired property. Earlier injunction suit filed by the plaintiffs was dismissed. The findings recorded in the injunction suit operate as a *res judicata*. Defendant further claimed that even if the suit property is held to be ancestral, defendant No.1 alienated the same being in dire need of money to pay off his debts.

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

- 1) Whether the plaintiffs and the defendant no.1 to 8 constituted joint Hindu family? OPP.

- 2) Whether the suit property is joint Hindu family coparcenary property? OPP.
- 3) Whether the plaintiffs have no locus standi to file the suit? OPD.
- 4) Whether the suit is barred by the principle of resjudicata? OPD.
- 5) Whether the pedigree table propounded in para No.1 of the plaint is incorrect? OPD.
- 6) Relief.

8. The Court of the First Instance partly decreed the suit. Admitting the pedigree table propounded by the plaintiffs to be correct, the Court of the First Instance found that the land situated at Hansaron devolved upon defendant No.1 Bhagat Singh from his father Inder Singh and the same was ancestral property *qua* the plaintiffs. The Court further found that the plaintiffs having failed to prove that the estate situated in village Ghataron was ancestral in the hands of defendant No.1, they are not entitled for decree *qua* part of suit property situated in village Ghataron.

9. Plaintiffs preferred appeal. Cross-objections were filed by defendant No.1. The Lower Appellate Court dismissed both appeal and cross-objections affirming the findings recorded by the Court of the First Instance.

10. The present appeal was decided by a detailed judgment passed by this Court, dated 11.04.2008 primarily holding that the suit was not maintainable during the lifetime of father and that the excerpt, Exhibit P13 was not proved in accordance with law.

11. Plaintiffs preferred an appeal before the Supreme Court.
12. The Supreme Court vide order dated 16.02.2016 set aside the judgment passed by this Court and remanded the matter back to be decided afresh in accordance with law.
13. After remand, this Court vide order dated 27.03.2019 observed as under:

“Although, this appeal is pending for the last 19 years, however, in order to do substantive justice, it would be more appropriate to call for the report on following issue:-

Whether the excerpt Ex.P13 has been proved in accordance with Volume-I Chapter IX Rule 5(v) and (vi) of the High Courts Rules and Orders?

Mr. Sarju Puri, learned counsel appearing for respondents no.6 to 8 and 10 submits that the excerpt has not been proved in accordance with the aforesaid provisions in the High Court Rules and Orders. Whereas learned counsel appearing for respondents no. 1 and 2 submits that the learned Court had appointed a special kanungo who had prepared the report but the defendant-appellant never sought opportunity to cross-examine.

In the considered opinion of this Court, once it is not disputed that special kanungo was appointed on the application of the plaintiff- respondent, it was the duty of the plaintiff-respondent to call the aforesaid special kanungo who prepared the excerpt in evidence and prove the same in accordance with rules.

Anyhow, in order to do substantive justice, counsel for the parties have agreed that let a report be called from the learned trial court after granting two opportunities each to the plaintiff-respondent as well as defendant-appellant to lead evidence in support thereof.

Learned counsel for the plaintiff-respondent has pointed out that it is not known as to whether special kanungo is alive or not. If that is the situation, the plaintiff-respondent would be entitled to get a fresh excerpt prepared and prove in accordance with law.

Mr. Sarju Puri, Advocate, has pointed out that with respect to land situated in village Hansaron, a suit was filed by Santokh Singh against Bhagat Singh in which there was issue with regard to nature of the property. He also prays that he may be permitted to lead evidence to prove that the property involved in the previous suit and the present suit is same.

In view of the consensus arrived at, let a photostat copy of the paper book be sent to the learned trial Judge to send a report after granting opportunities as noted above, within six months from the date of receipt of a certified copy of this order.

Parties through their counsels are directed to appear before the learned trial Court on 23.04.2019.

To await the report, adjourned to 10.09.2019.

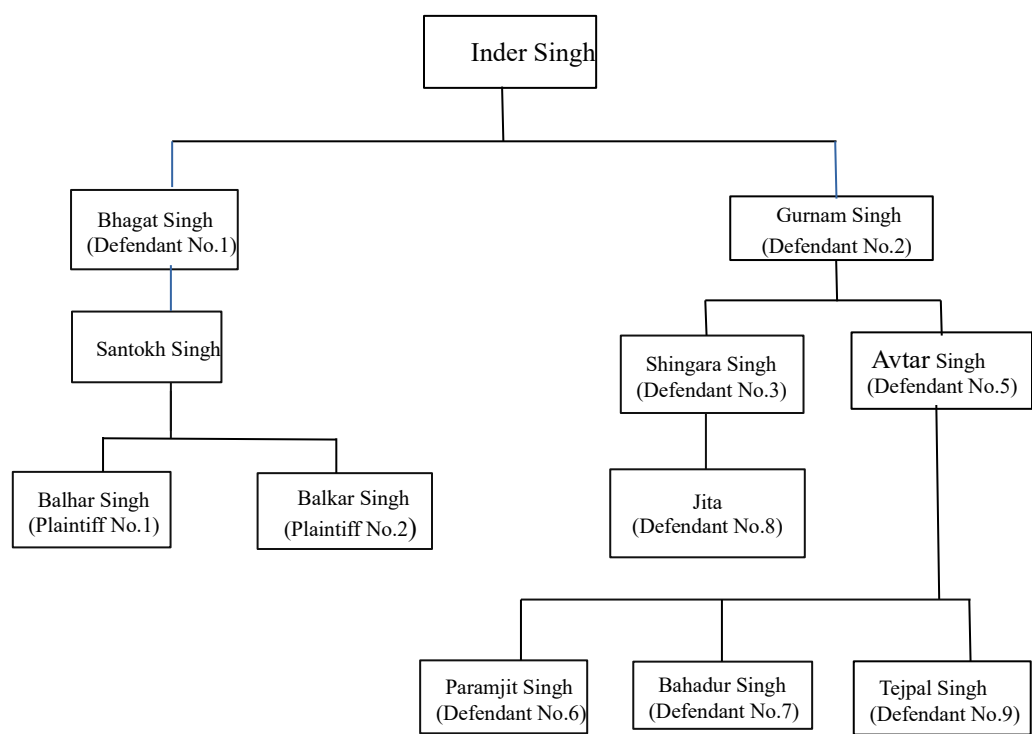
14. Pursuant to the aforesaid order, report has been received from Additional Civil Judge (Senior Division), Shaheed Bhagat Singh Nagar, dated 19.02.2021. Relevant extract of the report reads as under:

“On 05.02.2021, Statement of Sh Davinder Singh, Urdu Translator was recorded relating to translation of the Urdu version into Punjabi during the preparation of the said Excerpt report. The said witness Davinder Singh, Urdu Translator stated in his evidence that he is having diploma in Urdu Language from Central Institute of Indian Languages, Mysore. He also brought the original of his said certificate. He further stated that he has been authorized by Deputy Commissioner to translate the Urdu documents. He also brought the copy of said authorization letter in the court. He further stated that he has seen the documents translated by him, in the present case, which are Ex P21/A, Ex

P47/A, Ex P48/A, Ex P49/A. He further stated that the said documents translated by him as Ex P21/A, Ex P47/A, Ex P48/A, Ex P49/A are true and correct as per the original record being inspected by him at the time of translation on the instruction of Special Kanugo/Sadar Kanugo, Nawanshahr. He identified his signatures of these documents.

Accordingly, as per directions laid down in order dated 27.03.2019 passed by Hon'ble Punjab and Haryana High Court, Chandigarh, in RSA-1178-1990 (O & M), afresh excerpt report pertaining to village Hansron and village Ghataron, has been prepared by Sh Sham Sundar, Sadar Kanugo, Nawanshahr, which is Ex P- 15. He also produced the original record in the court during his entire evidence as per rule 5(v), Chapter IX, Volume 1 & 2, The Rules & Orders of Punjab and Haryana High Court and as per rule 5(vi) envisaged under Chapter IX, Volume 1, The Rules & Orders of Punjab and Haryana High Court, some of the entries referred above of the revenue record from the judicial file were also compared with the relevant original entries, which were found correct as per the original record. Hence, excerpt report Ex P-15 has been proved in accordance with rules envisaged under chapter IX, Rule 5(v) and 5(vi), Volume-I, The Rules & Orders of Punjab and Haryana High Court.

15. In view of the aforesaid report and the evidence on record, this Court finds that the plaintiffs have successfully proved excerpt, Exhibit P13. As per the same, the property situated in village Hansaron devolved upon defendant No.1 Bhagat Singh from his father Inder Singh and is ancestral property in his hands *qua* his son and grandsons. The pedigree table reads as under:



16. In view of above, the findings recorded by the Courts below w.r.t. ancestral nature of the part of the suit property measuring 32 Kanal 19 Marlas situated in village Hansaron. are affirmed.

17. A perusal of the judgment passed by both the Courts below would reveal that there is no finding recorded regarding legal necessity of defendant No.1. Keeping in view the fact that the present suit was instituted in the year 1984, this Court finds that it will not be apt to remand the matter back for the said reason.

18. The plaintiffs in their plaint pleaded that the ancestral property was alienated by Bhagat Singh (defendant No.1) without any legal necessity. Defendant No.1 claims that he was under debt and thus had to alienate the suit property for paying back the same. As per settled proposition of law, it is for the defendants to prove legal necessity. Apart from a bald assertion

made by defendant No.1 w.r.t. he being under debt, there is no evidence to prove the same. Defendant No.1 appeared as DW1. Though in his statement, he claimed that he was under debt, but failed to produce any evidence *qua* the same. Thus, the plea regarding he being under debt remained a bald plea which could never be corroborated by cogent piece of evidence.

19. In view of above, this Court finds that the Courts below rightly decreed the suit filed by the plaintiffs *qua* part of suit property, i.e., land measuring 32 Kanal 19 Marlas situated within the revenue estate of village Hansaron.

20. Resultantly, finding no merit in the present appeal, the same is ordered to be dismissed.

21. Pending application(s), if any, shall also stand disposed off.

May 11, 2026

Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No