

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

115**RSA-1046-2022(O&M)**
Date of decision: 28.01.2026**SAVITRI DEVI**

. . . . Appellant

Vs.**Daulat Ram and others**

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Gulshan Nandwani, Advocate, for the appellant.

DEEPAK GUPTA, J.

This Regular Second Appeal has been filed by the plaintiff, assailing the concurrent findings of the Courts below, whereby the relief of permanent injunction sought by him has been declined.

2. The factual matrix, as borne out from the record, is that the plaintiff instituted a suit claiming himself to be owner in possession of the suit land on the basis of a sale deed bearing Vasika No.2106 dated 02.07.2009, followed by mutation No.3041 dated 05.04.2010. It was pleaded that in terms of the sale deed, possession of a specific portion of the suit land, delineated by letters ABCD and shown in blue colour in the site plan appended with the plaint, had been delivered to her. According to the plaintiff, the defendants had no concern with the said portion, yet the revenue record continued to reflect their names, prompting him to seek correction of the same. On refusal by the defendants, the present suit for declaration and permanent injunction was filed.

3. The defendants contested the suit by pleading that the plaintiff had purchased only an undivided share, namely 1/16th share in one khasra number and 1/48th share in another khasra number of the suit land. It was specifically pleaded that no partition proceedings had ever taken place and, therefore, there could be no question of delivery of exclusive physical

possession of any specific portion to the plaintiff. On these premises, dismissal of the suit was sought.

4. Upon framing of issues and appreciation of the evidence led by the parties, the learned trial Court dismissed the suit vide judgment dated 26.10.2016. The appeal preferred by the plaintiff was partly accepted by the First Appellate Court vide judgment dated 26.11.2019.

5. The Appellate Court recorded a finding that by virtue of the sale deed, the plaintiff had indeed become a co-owner in the joint property. However, it was further held that the plaintiff had failed to establish her exclusive possession over any demarcated portion of the suit land.

6. The First Appellate Court further held that the plaintiff had merely stepped into the shoes of his vendors, who themselves held only an undivided interest in the joint property. In the absence of any prior partition or evidence of settled exclusive possession, the plaintiff was not entitled to seek an injunction against the other co-owners. Consequently, while a declaration of co-ownership was granted in favour of the plaintiff, the relief of permanent injunction was declined.

7. Learned counsel for the appellant has assailed the said findings by placing reliance on the recital in the sale deed to the effect that possession of the suit property had been delivered to the plaintiff.

8. However, when specifically queried by this Court, learned counsel was unable to point out any evidence on record to establish that the vendors of the plaintiff were themselves in exclusive physical possession of the specific portion claimed so as to validly deliver the same to the plaintiff. A mere recital of delivery of possession in a sale deed, in the context of joint property, does not ipso facto establish exclusive possession, particularly when the vendors themselves were co-sharers in an un-partitioned holding.

9. It is a settled principle of law that a co-owner is deemed to be in possession of every inch of the joint property, but such possession is joint and not exclusive. In the absence of partition by metes and bounds or proof of settled exclusive possession, a co-owner cannot seek an injunction

to restrain other co-owners from exercising their rights in the joint property. The appropriate remedy available to such a co-owner is to seek partition of the joint holding.

10. In the present case, both the Courts below have concurrently held, on appreciation of evidence, that the suit property is joint, that no partition has taken place, and that the plaintiff failed to prove exclusive possession over the specific portion claimed by her. These are pure findings of fact. No substantial question of law arises for consideration in this Regular Second Appeal under Section 100 CPC.

11. This Court, therefore, does not find any illegality, perversity, or misapplication of law in the impugned judgments. Holding the present appeal to be devoid of merit, the same is hereby dismissed.

28.01.2026

Vivek

(DEEPAK GUPTA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>