



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(102)

RSA-1090-1995 (O&M)

Reserved on :-21.05.2026

Date of Pronouncement:-29.05.2026

Uploaded on:- 29.05.2026

HARPAL SINGH

....Appellant

Vs

BACHAN SINGH (SINCE DECEASED) THROUGH LRS AND
OTHERS

...Respondents

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. M.L. Saggar, Senior Advocate, with
Mr. Rehaan Singh, Advocate and
Ms. Armaan Saggar, Advocate
for the appellant.

Mr. Baltej Singh Sidhu, Senior Advocate, with
Mr. Himmat Singh Sidhu, Advocate and
Ms. Mohabat Sandhu, Advocate,
for respondent No.3.

VIRINDER AGGARWAL, J. (Oral)

1. The present Regular Second Appeal (hereinafter referred to as “RSA”) has been instituted by the appellant–plaintiff assailing the decree and judgment dated 25.03.1995 passed by the learned District Judge, Faridkot, whereby the findings recorded by the learned trial Court came to be affirmed in toto. The learned Sub-Judge Ist Class, Muktsar, vide decree and judgment dated 03.06.1991, had dismissed the suit instituted by the plaintiff seeking a decree of permanent injunction. Aggrieved by the concurrent findings returned by both the Courts below, the appellant has approached this Court contending that the impugned decrees and judgments suffer from material



illegality, patent misappreciation of evidence, and erroneous application of settled principles of law.

2. The factual matrix giving rise to the present appeal, as pleaded by the appellant-plaintiff, is that the plaintiff along with his brothers had purchased the suit property comprising specific khasra numbers from the previous owner, namely Malkiat Singh, by virtue of a registered sale deed dated 19.01.1989 for a valuable consideration of ₹15,000/-. It has been averred that consequent upon the execution of the sale deed, the vendees were put into possession of the specific khasra numbers purchased by them and, since the date of purchase, the plaintiff and his brothers have continued to remain owners in exclusive possession of their respective parcels of land. It was further pleaded that the defendants, being influential and forceful persons, had been extending threats of forcibly and illegally dispossessing the plaintiff from the suit property despite having no lawful authority or entitlement to do so. According to the plaintiff, Malkiat Singh, being a co-owner in exclusive possession of the specific khasra numbers, was fully competent to alienate the same and, consequently, the plaintiff and his brothers had acquired lawful title and possession over the suit land. In these circumstances, the suit seeking permanent injunction came to be instituted.

3. Upon service of summons, the defendants entered appearance through counsel and contested the suit by filing a written statement. It was specifically pleaded that the suit property had already been purchased by defendant No.1, namely Bachan Singh, from the previous owner Gurdial Singh son of Bhaga Singh by way of a registered sale deed dated 24.02.1970 and that since the date of said purchase, defendant No.1 had been the lawful



owner in possession thereof. Consequently, it was contended that there could be no question of the same parcel of land subsequently being alienated by Malkiat Singh as alleged by the plaintiff. The remaining averments contained in the plaint were categorically denied and it was further asserted that defendants No.2 and 3, namely Mohinder Singh and Niranjan Singh, had been unnecessarily impleaded in the proceedings. On the basis of the aforesaid pleadings, dismissal of the suit was sought.

4. Subsequently, the plaintiff filed a replication controverting the assertions and objections raised in the written statement and reiterating the averments contained in the plaint. Upon a comprehensive consideration of the pleadings and rival contentions advanced by the parties, the learned trial Court proceeded to crystallize the matters in controversy and framed the following issues for determination:-

1. *Whether the suit is not maintainable in the present form? OPD.*
2. *Whether the plaintiff has the locus-standi to file the present suit? OPP,*
3. *Whether the plaintiff and his brothers are the owners in possession of the suit land ?OPP.*
4. *Whether the plaintiff is entitled to the injunction prayed for? OPP*
5. *Relief.*

5. Pursuant to the framing of issues, both parties were afforded full and adequate opportunity to adduce oral as well as documentary evidence in support of their respective pleadings and claims. Upon a comprehensive appreciation of the entire evidentiary material available on record and after hearing learned counsel appearing on behalf of the parties, the learned trial Court proceeded to **dismiss** the suit.



5.1. Aggrieved thereby, the appellant/plaintiff preferred an appeal before the learned First Appellate Court. Upon reappraisal of the evidence and consideration of the findings returned by the learned trial Court, the appeal was also **dismissed**, thereby affirming the decree and judgment under challenge.

5.2. Dissatisfied with the **concurrent findings** recorded by both the Courts below, the appellant has approached this Court by way of the present RSA.

6. The instant appeal has been instituted by the appellant assailing the concurrent decrees and judgments rendered by the learned Courts below on the ground that the same suffer from material illegality, misappreciation of evidence, and erroneous application of settled legal principles. Upon finding that the appeal involved issues warranting judicial consideration, the same was admitted to regular hearing vide order dated **02.11.1995** and notice was accordingly issued to the respondents, pursuant to which respondent No.3 entered appearance through counsel and contested the proceedings.

6.1. For the purpose of facilitating a complete, effective, and judicious adjudication of the controversy involved, the entire record of the Courts below was requisitioned and has been made available on '**DMS**' for consideration by this Court.

7. I have heard learned counsel for the parties at considerable length and have bestowed my thoughtful and anxious consideration upon their respective submissions while carefully examining the pleadings of the parties, the evidence adduced on record, and the concurrent findings returned by the learned Courts below.



8. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of ***Pankajakshi (Dead) through LRs and others V/s Chandrika and others, (2016)6 SCC 157***, followed by the judgments in the case of ***Kirodi (since deceased) through his LR V/s Ram Parkash and others, (2019) 11 SCC 317 and Satender and others V/s Saroj and others, 2022(12) Scale 92***. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

9. Learned counsel for the appellant has contended that subsequent to the filing of the present appeal, an application for additional evidence has been moved on behalf of the appellant seeking permission to bring on record and prove the sale deed dated 10.04.2001. It is submitted that the said sale deed was executed by Kulwinder Singh in respect of land measuring 04 kanals 08 marlas comprised in Killa No. 3/2/2, situated at Village Dohak, in favour of Sukhdev Singh and Partap Singh in equal shares. It is further contended that the said document could not be produced or proved before the learned trial Court at the relevant stage as the execution thereof came to the knowledge of the appellant during the pendency of the appeal only, and thus constitutes a subsequent development which has a direct bearing on the merits of the controversy involved between the parties. It is submitted that the document is a crucial piece of evidence necessary for arriving at a just and proper adjudication of the dispute and, therefore, deserves to be taken on record in the interest of justice. However, it is pointed out that respondent No.3 has



objected to the aforesaid application for additional evidence, contending that the appellant is attempting to fill in the lacunae in his case at the appellate stage and that no sufficient ground has been made out to justify the production of such evidence at this belated stage of the proceedings.

10. The present appeal as well as the accompanying application are being disposed of by way of this common judgment.

11. Learned counsel for the appellant has contended that the learned First Appellate Court has misread and misappreciated the evidence on record, resulting in erroneous findings to the effect that the appellants/plaintiffs have failed to establish their exclusive possession over the suit land. It is submitted that the learned District Judge has placed undue reliance upon the entries in the Jamabandi, ignoring the relevant entries contained in the Khasra Girdawari, though it is well settled that entries in Jamabandi carry only a rebuttable presumption of correctness, and the same stands rebutted in the present case by the consistent and continuous entries reflected in the Khasra Girdawari, which clearly demonstrate possession of the appellants/plaintiffs. It is further contended that in view of the aforesaid evidence, the findings recorded by the learned First Appellate Court are unsustainable in law and are liable to be set aside. Accordingly, it is prayed that the respondents be restrained from interfering in the peaceful possession of the appellants/plaintiffs over the suit land and the appeal be allowed.

12. Per contra, learned counsel for the respondents has supported the findings recorded by the learned First Appellate Court and has contended that the same are based upon correct appreciation of pleadings as well as the evidence led on record. It is submitted that it is an admitted position that the



respondent, along with the vendor of the appellant/plaintiff, was co-owner in the suit land, and the appellant/plaintiff claims to have purchased the suit land from Malkiat Singh through a registered sale deed, which was also brought on record by way of additional evidence. During the course of hearing of the appeal, it has been pointed out that the said sale deed reflects that the appellant/plaintiff had purchased land measuring 06 kanals 03 marlas vide sale deed dated 19.01.1989, copy whereof is Ex.P-4. The appellant/plaintiff has further placed on record the copy of Jamabandi for the year 1989–90 as Ex.P-5 and copy of Khasra Girdawari as Ex.P-6. As per the sale deed (Ex.P-4), the relevant khasra numbers comprised in the transaction are 71//31/1/0-4, 71//3/2/1/3-8 and 4//2/2-11. It is further pointed out that in the Jamabandi for the relevant period, Malkiat Singh along with Surjit Singh are recorded as co-owners in respect of the suit land along with other co-sharers, thereby supporting the case of the respondents that no exclusive ownership or possession can be claimed by the appellants/plaintiffs.

13. It is a well-settled principle of law that a vendor, being a co-sharer in joint property, can transfer only such rights and possession as he himself possesses. Consequently, exclusive possession over joint land can be delivered by a co-owner only if it is established that he was himself in exclusive possession of the specific khasra numbers at the time of execution of the sale deed.

14. In the present case, the appellant/plaintiff has failed to bring on record any revenue record prior to the execution of the sale deed by Malkiat Singh to establish that Malkiat Singh was in exclusive possession of the specific khasra numbers in question or was otherwise competent to transfer



exclusive possession thereof. On the contrary, the Khasra Girdawari (Ex.P-6) relied upon by the appellant/plaintiff itself reflects that the suit land was in joint possession of co-sharers.

15. A perusal of the Khasra Girdawari further reveals that in respect of Khasra No. 71//3/1-0-4, Bachan Singh is shown to be in possession; in respect of Khasra No. 71//3-2, Malkiat Singh and Surjit Singh are recorded in joint possession over an area measuring 03 kanals 08 marlas; and in respect of Khasra No. 71//4-2, Surjit Singh, being a co-sharer, is recorded in possession. The said position is consistently reflected even in the relevant period prior to the execution of the sale deed Ex.P-4, including entries of Sauni 1988.

16. In view of the aforesaid evidence, it stands duly established that Malkiat Singh, the vendor of the appellant/plaintiff, was not in exclusive possession of the suit land and, therefore, was not competent to deliver exclusive possession thereof. Accordingly, the learned First Appellate Court has rightly held that the status of the appellant/plaintiff is that of a co-sharer in joint possession over the suit property, and as such, the appellant/plaintiff is not entitled to the relief of injunction as prayed for. So far as the application for additional evidence is concerned, the sale deed sought to be produced pertains to different khasra numbers which were not in dispute at the time of institution of the suit. Moreover, under the said document, the appellant/plaintiff is stated to have purchased the share of Kulwinder Singh, who is not even a party to the present proceedings. Therefore, the proposed additional evidence is neither relevant nor necessary for the adjudication of the present appeal.



17. Accordingly, finding no merit in the appeal as well as the application for additional evidence, the same are dismissed and the judgment and decree passed by the learned Courts below are hereby affirmed.

18. Consequent upon the final adjudication of the principal matter, all pending miscellaneous applications, if any, arising out of or connected with the present proceedings, shall stand disposed of by necessary implication. In light of the conclusions reached herein, no separate or independent orders are required in respect of such applications, as their determination has become wholly infructuous and academic.

(VIRINDER AGGARWAL)
JUDGE

29.05.2026

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