



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

1. **RSA-1576-1996 (O&M)**
Reserved on :- 19.02.2026
Date of Pronouncement:-25.02.2026
Uploaded on:-27.02.2026

Ram Chander

... Appellant

Versus

Ishwar and Others

... Respondents

2. **RSA-1577-1996 (O&M)**

Ram Chander

... Appellant

Versus

Ishwar Major and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Jogi Ram Nain, Advocate
for the appellants.

None for respondents.

VIRINDER AGGARWAL, J.

1. This consolidated judgment shall govern the disposal of the above-captioned Regular Second Appeals (hereinafter referred to as the “RSAs”), which emanate from a common factual substratum and involve substantially similar questions of law. In view of the identity of parties, the overlapping nature of the impugned judgments and decrees, and with the



consent of learned counsel, the appeals are being adjudicated and disposed of conjointly to ensure consistency, judicial economy, and procedural expediency.

2. For the sake of convenience and clarity, the factual matrix has been succinctly drawn from the records of both appeals and is treated as the representative foundation for the present adjudication. Though certain issues may vary in each appeal, the material facts are substantially common and are, therefore, collectively adopted for purposes of this consolidated determination.

3. The appellants, by way of the present RSAs, assail the judgments and decrees passed by the learned First Appellate Courts, impugning the correctness and legality thereof.

4. The plaintiff, Ram Chander, instituted a civil suit No.779 of 1987 seeking a decree of permanent injunction restraining the defendants from securing the sanction of mutation in their favour on the basis of an alleged collusive judgment and decree dated 09.10.1985.

5. Succinctly stated, Dharam Chand was the owner in possession of the suit property and had entered into an agreement to sell the same in favour of the plaintiff on 30.06.1984. Upon his failure and refusal to execute the sale deed in terms of the said agreement, the plaintiff instituted a suit for specific performance on 02.04.1985, which culminated in a decree dated 27.01.1987. The appeal preferred thereagainst was dismissed vide judgment and decree dated 26.10.1987, thereby affirming the plaintiff's entitlement.

5.1 During the pendency of the aforesaid proceedings, the defendants allegedly instituted a collusive suit against Dharam Chand on



08.10.1985 in respect of the same property and procured a decree dated 09.10.1985. It is the plaintiff's case that the said decree was obtained with the ulterior object of frustrating the execution of the decree for specific performance passed in his favour, and that the defendants are now seeking to have mutation sanctioned on its basis.

5.2. It is further averred that Lachhman, the father of Dharam Chand, is still alive and that Dharam Chand had acquired the suit property from him through a consent decree, thereby becoming the exclusive owner thereof. Consequently, the defendants are asserted to have no right, title, or interest in the suit property. Hence, the present suit.

6. Upon due service of summons, the defendants entered appearance and contested the claim by filing a detailed written statement. At the outset, preliminary objections were raised assailing the locus standi of the plaintiff, the maintainability of the suit, and the jurisdiction of the Civil Court to entertain the same. On merits, the defendants emphatically denied the exclusive ownership and possession of Dharam Chand, contending that the suit property formed part of ancestral coparcenary property of a Joint Hindu Family, in which both Dharam Chand and the defendants were co-sharers. It was further averred that Dharam Chand had validly suffered a decree dated 09.10.1985 in favour of the answering defendants, and by virtue thereof, the defendants had acquired ownership and possession of the suit land. On this premise, it was asserted that neither the plaintiff nor Dharam Chand subsisted with any enforceable right, title, or interest in the property in dispute.

7. In replication, the plaintiff comprehensively traversed the preliminary objections and substantive assertions advanced in the written



statement, categorically denying the same and reiterating, in unequivocal terms, the material averments contained in the plaint. Upon the pleadings being thus completed, the learned trial Court, with a view to crystallizing the real questions in controversy and to facilitate a structured, coherent, and legally sound adjudication of the *lis*, proceeded to frame the following issues for determination:-

1. Whether the plaintiffs are owners of the suit land by way of decree dt. 9.10.1985, OPP
2. Whether the decree dt. 27.1.1987 in favour of defendant no. 1 is illegal, void and not binding on the rights of the plaintiffs? OPP
3. If issue no. 1 and 2 are proved, whether the plaintiffs are entitled to the relief of injunction as prayed for, OPD
4. Whether the suit is premature, OPD
5. Whether the plaintiffs have got no locus standi, OPD
6. Whether the suit is collusive and to what effect?
7. Whether the suit is ancestral property?OPD
8. Relief.

8. In a separate and independent civil action suit No.57 of 1988 instituted by the plaintiffs, a decree for declaration has been sought on the foundational plea that the plaintiffs are the sons of defendant No.2 and that the suit property constitutes ancestral coparcenary property in the hands of the plaintiffs and defendant No.2. It is pleaded that Dharam Chand inherited the property from his father Lachhman, who, in turn, had succeeded to the same from his father Nannu Ram, thereby imparting to the property the character of ancestral estate. It is further averred that, pursuant to a family partition, the suit land fell to the share of the plaintiffs, and that a valid decree dated 09.10.1985 was passed in their favour.



9. The plaintiffs have also impugned the decree dated 27.01.1987 passed in Civil Suit No.737 of 1986, whereby defendant No.1 obtained a decree for specific performance of contract against defendant No.2. It is contended that the said decree is illegal, null and void, and not binding upon the plaintiffs, as they were neither impleaded nor heard in the said proceedings. The decree is alleged to be the outcome of collusion between defendants No.1 and 2. It is further asserted that defendant No.2, being only a coparcener, had no legal authority to alienate the entirety of the ancestral suit property in the absence of legal necessity or benefit of estate. On these premises, the present suit has been instituted seeking appropriate declaratory relief.

10. Upon service of summons, defendant No.2 entered appearance and submitted a written statement, wherein the claims advanced by the plaintiffs were unequivocally admitted. It was further asserted by him that he had not executed any decree in favour of defendant No.1, thereby lending support to the plaintiffs' case.

11. Defendant No.1, however, contested the suit by filing a detailed written statement raising, at the threshold, various preliminary objections. It was contended that the plaintiffs had earlier instituted a suit against defendant No.1 challenging the agreement to sell, which was subsequently withdrawn, and that the present suit was, therefore, not maintainable. It was further pleaded that the suit was premature, that the plaintiffs lacked locus standi to institute the present proceedings, and that the same had been filed in collusion with defendant No.2 with an oblique motive.



11.1. On merits, defendant No.1 categorically denied that the suit property was ancestral in the hands of defendant No.2 or that the plaintiffs possessed any birthright therein. The assertion that Dharam Chand had inherited the suit property from his father Lachman was also specifically refuted. It was pleaded that Lachhman was still alive and that the suit land had been transferred in favour of Dharam Chand through a civil court decree. The validity and legality of the judgment and decree passed in favour of defendant No.1 in the suit for specific performance of contract were emphatically affirmed, and it was asserted that the answering defendant was lawfully entitled to have the said decree executed. On these premises, dismissal of the suit was sought.

11.2. Upon the completion of pleadings, the learned trial Court, in order to crystallize the real and substantial questions in controversy and to ensure a structured and legally coherent adjudication of the lis, proceeded to frame the following issues for determination:—

1. Whether the plaintiffs are owners of the suit land by way of decree dt. 9.10.1985?OPP
2. Whether the decree dt. 27.1.1987 in favour of the defendant no. 1 is illegal, void and not binding on the rights of the plaintiffs?OPP
3. If issue no. 1 and 2 are proved whether the plaintiffs are entitled to the relief of injunction as prayed for?OPD
4. Whether the suit is pre-mature?OPD
5. Whether the plaintiffs have got no locus- standi?OPD
6. Whether the suit is collusive and to what effect?OPD
7. Relief

12. Both the aforementioned suits were, in view of their interrelated factual substratum and overlapping legal issues, taken up



together by the learned Courts below and adjudicated conjointly to ensure consistency and judicial coherence in the determination of the disputes.

13. The learned Sub-Judge First Class, Fatehabad, upon appreciation of the pleadings and evidence, dismissed the suit instituted by Ishwar and others. Conversely, the suit filed by Ram Chander seeking a decree of permanent injunction was decreed, and the defendants therein (Ishwar and others) were restrained from procuring the sanction of mutation in their favour on the basis of the decree dated 09.10.1985. Aggrieved by the said judgment and decree, the unsuccessful parties preferred appeals before the competent appellate forum.

14. The learned First Appellate Court, by a common and composite judgment dated 30.10.1992, disposed of both appeals. The appellate Court allowed the appeals and held that decree Ex.C2 dated 27.01.1987, passed in the civil suit for specific performance instituted by Ram Chander, along with the sale deed executed pursuant thereto, was illegal and ineffective insofar as it pertained to the shares of the appellants, being coparceners of Dharam Chand. It was, however, declared that the said decree and consequential sale deed would remain valid and operative only to the extent of the share of Dharam Chand in the suit property. Consequently, the suit filed by Ram Chander for permanent injunction was dismissed, and the injunction earlier granted by the learned Civil Judge was vacated.

15. Aggrieved by the judgment and decree impugned herein, the aforesaid RSAs came to be instituted before this Court. Upon being satisfied that the appeals raised substantial and arguable questions warranting judicial scrutiny, the same were admitted for regular hearing



and notice was duly issued to the respondents. Although the respondents were initially represented by Mr. Varun Parkash, Advocate, he subsequently chose not to pursue the matter and remained unrepresented at the stage of final arguments. In the absence of any assistance on their behalf, the appeals were heard and are being adjudicated on the basis of the submissions advanced by learned counsel appearing for the appellants and the material available on record.

15.1. For the purpose of comprehensive, informed, and effective adjudication of the controversy, the entire original record of the learned Courts below was requisitioned and has been carefully perused.

15.2. I have heard learned counsel for the appellants at length and have accorded anxious and thoughtful consideration to the submissions advanced, in the backdrop of the pleadings, the evidence adduced on record, and the findings returned by the learned Courts below.

15.3. 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.



16. Learned counsel for the appellants has vehemently contended that the learned First Appellate Court gravely misdirected itself in law and on facts by misreading the evidence on record and by recording findings founded upon surmises and conjectures. It is urged that the suit property was acquired by Dharam Chand pursuant to a decree of a competent Civil Court and, therefore, could not have been erroneously characterised as ancestral coparcenary property in his hands. It is further contended that the father of Dharam Chand, namely Lachman, was admittedly alive at the relevant time, and the property did not devolve upon Dharam Chand by way of survivorship. Consequently, Ishwar and others could not have been held to possess any birthright therein. On these premises, it is prayed that the impugned findings be set aside and the appeals be allowed.

17. A perusal of mutation Ex.PW5/A reveals that the suit land stood vested in the ownership of Dharam Chand on the strength of a Court decree, a finding duly recorded by the learned Sub-Judge First Class. However, the learned Additional District Judge proceeded on the premise that, as per mutation Ex.PW5/A proved by PW-5 Sunder Dass, Patwari, the property devolved upon Dharam Chand through his father and was, therefore, ancestral in his hands vis-à-vis his sons, Ishwar and others. The learned First Appellate Court, in doing so, failed to appreciate that there was no devolution of Lachman's estate by survivorship, particularly when Lachman was alive and had appeared as PW-4 in the proceedings. The mutation entries unequivocally indicate that the property came to Dharam Chand by virtue of a Court decree and not by operation of succession through survivorship.



18. It is a settled principle of Hindu law that, to constitute ancestral coparcenary property, the property must devolve upon the holder by way of survivorship. In the present case, as the property was acquired by Dharam Chand on the basis of a judicial decree, its character in his hands was that of absolute property. His sons, including Ishwar and others, did not acquire any right, title, or interest therein during his lifetime. Dharam Chand, being the absolute owner, was fully competent to deal with the property in any manner permissible in law. Accordingly, a valid decree for specific performance was passed against him on the basis of an agreement to sell, and in execution thereof, a sale deed was duly executed through the intervention of the Court.

19. The decree allegedly suffered by Dharam Chand in favour of his sons was rightly held by the learned trial Court to have been engineered to defeat the lawful rights of appellant Ram Chander. The said decree, which was procured collusively by filing a suit during pendency of suit for specific performance filed by Dharam Chand was, therefore, correctly declared illegal and void. The findings recorded by the learned First Appellate Court, being contrary to the settled legal position and unsupported by the record, are unsustainable and liable to be reversed.

20. Consequently, the appeals preferred by appellant Ram Chander are **allowed**. The judgments and decrees passed by the learned First Appellate Court are set aside. The suit instituted by Ram Chander for permanent injunction stands decreed in terms of the decree passed by the learned Sub-Judge First Class, whereas the suit filed by Ishwar and others stands dismissed.



21. In consequence of the definitive adjudication of the principal lis, all ancillary, interlocutory, or miscellaneous application(s), if any, pending in or arising out of the present proceedings, shall, by necessary and inescapable implication, stand disposed of. In view of the conclusive findings recorded herein, no separate or independent orders are warranted in respect of such applications, their subject matter having merged with and been rendered academic by the final determination of the main cause.

22. A copy of this judgment be placed on the connected file for ready reference and for compliance, if any.

25.02.2026
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No