



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

(110)

RSA-1251-2024 (O&M)  
Date of Decision: **07.04.2026**

BHUP SINGH AND ANR

... Appellants

Versus

JAI KISHAN AND OTHERS

... Respondents

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**CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present:- Mr. Nitin Verma, Advocate with  
Mr. Sanjay Kumar, Advocate  
for the appellants.

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**VIRINDER AGGARWAL, J.** (Oral)

1. The present Regular Second Appeal (hereinafter referred to as “RSA”) is directed against the judgment and decree dated 23.01.2024 passed by the learned Additional District Judge, Hisar, whereby the appeal preferred by the appellant was dismissed, the appeal preferred by the respondent was allowed, and consequently, the suit instituted by the present appellants which had earlier been partly decreed vide judgment and decree dated 16.08.2016 was ultimately dismissed.

2. Briefly stated, the case set up by the appellant–plaintiff along with proforma respondents is that they are owners in possession of the suit land, fully detailed and described in the head-note of the plaint, in equal shares, being Class-II heirs of deceased Raj Singh. It is pleaded that the mutations pertaining to inheritance have been illegally and unlawfully sanctioned and are liable to be declared null and void, not binding upon



the plaintiffs and proforma defendants. A further relief of permanent injunction was also sought restraining the defendants from alienating the suit land.

2.1 It is the case of the plaintiffs that Har Chand was the original owner in possession of the suit land, who died on 02.09.1969, leaving behind four sons, namely Ram Singh, Sultan Singh, Raj Singh, and Dariya Singh. It is further averred that mutation was sanctioned in favour of the said four sons on 19.05.1998. Raj Singh is stated to have died issueless, leaving behind no Class-I heirs. Upon his death, it is pleaded that his surviving brothers, namely Ram Singh, Sultan Singh, and Dariya Singh, being Class-II heirs, became entitled to inherit his estate in equal shares. However, it is alleged that Sultan Singh, in collusion with revenue officials, got the mutation of inheritance of Raj Singh wrongly sanctioned in his favour alone. The said mutation is stated to be a product of fraud and misrepresentation and, therefore, liable to be set aside.

3. The defendants contested the suit by raising preliminary objections regarding maintainability, absence of cause of action, lack of locus standi, and limitation. During the pendency of the proceedings, Smt. Dharmo Devi, daughter of Jai Chand, was impleaded as defendant No.15 upon her application. She filed a written statement as well as a counter-claim, challenging the mutation of inheritance of Har Chand. It was pleaded by her that Har Chand had five sons and that Jai Chand, father of the answering defendant, had predeceased Har Chand. On this basis, it was asserted that the answering defendant, being the daughter of a pre-



deceased son of Har Chand, is entitled to 1/5<sup>th</sup> share in the estate of Har Chand.

4. Upon a comprehensive and careful scrutiny of the pleadings on record, as well as the rival contentions advanced by the parties, the learned Trial Court deemed it appropriate to crystallize the matters in controversy. Accordingly, for the purpose of a systematic, precise, and legally coherent adjudication, the Court proceeded to frame the following issues for determination:—

- 1) Whether the plaintiffs are entitled to declaration to the effect that plaintiffs alongwith performa defendants are owners in possession of the suit land in equal shares being the second class legal heirs of deceased Raj Singh and mutation No.2098 dated 16.11.1998 and mutation No.2417 dated 06.12.2005 are against law and facts and liable to be set aside and be corrected in favour of plaintiffs and performa defendants?OPP
- 2) Whether the plaintiffs are entitled for injunction to the effect that defendants are restrained from alienating the suit land on the basis of wrong entries in the revenue record?OPP
- 3) Whether the defendants are entitled for the relief as prayed for in the counter claim?OPD
- 4) Whether the suit of the plaintiffs is not maintainable in the present form?OPD
- 5) Whether the plaintiffs have no cause of action and locus standi to file the present suit?OPD
- 6) Whether defendant No. 15, a counter claimant is entitled to the decree of declaration to the effect that she was daughter of Mr Jai Chand and grand daughter of Mr Harchand?



- 7) If issue No. 6 is proved, then whether counter claimant is entitled to a decree of declaration to the effect that impugned mutation bearing No. 1270 dated 22/09/1969, was illegal, null and void and defendant No. 15,(a) being daughter of Mr Jai Chand is entitled to 1/5 share in the property of her grandfather, Mr Harchand?
  - 8) Whether counter claim is not maintainable? (Issues No.6 to 8 were framed vide order dated 12.08.2016).
  - 9) Relief.
5. Both parties were afforded adequate opportunity to adduce evidence. Upon appreciation thereof, the learned Civil Judge partly decreed the suit of the plaintiffs, set aside the mutation relating to the estate of Raj Singh, and further allowed the counter-claim filed by Smt. Dharmo Devi, holding her entitled to 1/5th share in the suit property of Har Chand. It was further held that the plaintiffs and proforma defendants were entitled to inherit the estate of Raj Singh in equal shares along with Sultan Singh.
- 5.1 Aggrieved by the judgment and decree so passed, both parties preferred appeals before the learned First Appellate Court. The learned Additional District Judge, Hisar, dismissed the appeal filed by the appellant–plaintiffs and allowed the appeal preferred by the respondents–defendants. It was held that Ram Singh and Dariya Singh had predeceased Raj Singh, and at the time of death of Raj Singh, only Sultan Singh was alive among the brothers. Consequently, Sultan Singh, being the sole surviving brother falling in a preferential category, excluded the plaintiffs and proforma respondents from inheriting the estate of Raj Singh. Aggrieved thereby, the present appeal has been preferred.



6. I have heard learned counsel for the appellants at considerable length and have bestowed anxious and thoughtful consideration upon the submissions advanced, in the light of the pleadings of the parties, the evidentiary material brought on record, and the concurrent findings recorded by the Courts below.

7. Upon consideration of the material on record, this Court finds no merit in the present appeal. It stands duly established from the death certificates on record that Ram Singh died on 27.07.1997, Dariya Singh died on 12.06.1994, whereas Raj Singh survived thereafter and died issueless on 19.05.1998. The said factual position has also been admitted by PW-1 Bhoop Singh (son of Ram Singh) as well as PW-2 Raj Singh during cross-examination.

7.1 In view thereof, the learned First Appellate Court has rightly concluded that at the time of death of Raj Singh, only one brother, namely Sultan Singh, was alive. The plaintiffs and proforma respondents are admittedly the descendants of pre-deceased brothers of Raj Singh.

7.2 As per the Schedule of Class-II heirs under the Hindu Succession Act, 1956, Sultan Singh, being a brother, falls under Entry No.2, whereas the plaintiffs and proforma respondents fall under Entry No.4. In terms of Section 9 of the Hindu Succession Act, heirs falling in a higher entry are preferred over those in subsequent entries. Accordingly, the learned First Appellate Court has rightly held that the appellants and proforma respondents have no legal right to inherit the estate of Raj Singh.



7.3 Further, Smt. Dharmo Devi has rightly been held to be the daughter of Jai Chand, a pre-deceased son of Har Chand, and consequently entitled to 1/5th share in the estate of Har Chand.

7.4 In view of the foregoing, finding no merit in the present appeal, the same is hereby **dismissed**, and the judgment and decree passed by the learned First Appellate Court are affirmed.

8. In view of the final adjudication of the principal matter, all pending miscellaneous applications, if any, shall also stand disposed of accordingly. No further orders are required to be passed in that regard.

07.04.2026  
Gaurav Sorot

( **VIRINDER AGGARWAL** )  
JUDGE

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