

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****120****RSA-1603-2023 (O&M)****Date of decision: 18.03.2026****Gulzar Singh****...Appellant(s)****Vs.****Dalbara Singh (now died) represented by his LRs
and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Shalini Singh, Advocate and
Mr. Aayush Gupta, Advocate
for the appellant.

***********NIDHI GUPTA, J.**

Present Second Appeal has been filed by the plaintiff against the concurrent judgments and decrees of the learned District Courts; whereby suit filed by the appellant for declaration and permanent injunction, has been dismissed by both the District Courts.

2. Brief facts of the case are that the plaintiff and defendants no.1, 3, and 4 are their brothers. Mukand Singh was their father. It was the case of the plaintiff that Mukand Singh alongwith the plaintiff and defendant no.1, 3, and 4 constituted a Joint Hindu Family Coparcenary; and together they owned and possessed the ancestral joint Hindu Family Coparcenary property including the land measuring 22K-12M-3 Sarsahi. By way of being coparcener, plaintiff had 1/5th share in the suit land alongwith Mukand Singh, and defendants No.1, 3 and 4 to the extent of



4K-10M-4 Sarsahi. Mukand Singh had died intestate on 01.11.2019. Thus, plaintiff and defendants No. 1, 3 and 4 inherited coparcenary share of Mukand Singh deceased i.e. 4K-10M-4 Sarsahi in 4 equal shares to the extent of 1K-2M-5 Sarsahi each. As such, plaintiff sought declaration that he was owner in joint possession of the land measuring 5K-13M/suit land.

3. However, upon death of Mukand Singh, defendants No.1 and 2 claimed ownership over the entire land alleging that they had purchased the same from Mukand Singh. Upon enquiry, plaintiff discovered that defendant No.1 had got executed a Transfer Deed bearing No. 2529 dated 12.10.2009 from Mukand Singh in respect of land measuring 10K-18M, in respect of which Mutation No. 9241 was sanctioned in revenue record. Plaintiff further discovered that defendant No.2 had also got executed another Transfer Deed No. 2528 dated 12.10.2009 in respect of land measuring 8K-0M in respect of which Mutation No. 9240 was sanctioned in the revenue record. The said Transfer Deeds were alleged to be without delivery of possession. Accordingly, a declaration was sought that the said Transfer Deeds and Mutations were illegal, void, and alleged to be fraudulently executed. It was further averred that defendants No.1 and 2 on the strength of the said alleged Transfer Deeds and wrong revenue entries, were threatening to dispossess the plaintiff from joint possession and also alienated the suit land. Accordingly, permanent injunction was sought restraining them from doing so. Plaintiff had requested defendants No.1 and 2 to admit claim of the plaintiff however, to no avail. With these pleadings, present suit was filed on 18.11.2009.



4. Upon appraisal of the pleadings and the evidence led by the parties, the learned Civil Judge (Junior Division), Jagraon had dismissed the suit of the plaintiff with costs vide judgment and decree dated 06.07.2017. The Civil Appeal filed by the plaintiff was dismissed by the learned Additional District Judge, Ludhiana vide judgment and decree dated 23.02.2023. Hence, the present second Appeal by the plaintiff.

5. It is *inter alia* submitted by learned counsel for the appellant that learned District Courts were in patent error in holding that property in the hands of Mukand Singh was his self acquired property. It is submitted that defendants have admitted that the suit property is coparcenary property and plaintiff and defendants No. 1, 3 and 4 had share in the suit land after the death of Mukand Singh to the extent of 1/4th share each. It is submitted that in passing the impugned judgments and decrees, the learned District Courts have failed to consider the entire evidence including the relevant revenue record which proves that suit land was Joint Hindu Family Coparcenary Property including the revenue record. Most importantly, it has been fully established by way of Kursinama/Excerpt that the property in the hands of Mukand Singh was a Joint Hindu Coparcenary property and he was not absolute owner. Rather Mukand Singh was the custodian of the property. But these facts and evidence have not been properly considered.

6. It is accordingly prayed that the present Second Appeal be allowed; and impugned judgments and decrees of the learned District Courts be set aside.



7. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of learned counsel for the appellant.

8. The record reveals that plaintiff has miserably failed to prove the alleged coparcenary nature of the suit property. PW1 Harminder Singh and PW2 Nachhattar Singh have admitted that the property devolved from Pakhar Singh to his sons including Mukand Singh by way of a Will. Thus, from this short fact, it is established undisputedly that property in the hands of Mukand Singh was self acquired property. Although, during his arguments, plaintiff has made reference to an Excerpt. However, learned counsel has been unable to show anything to this effect from the record. Thus, as plaintiff failed to prove the ancestral nature of the suit property, as such, challenge of the plaintiff to the Transfer Deeds on the ground of lack of legal necessity and benefit of estate was not maintainable.

9. Although it has not been argued, the record further reveals that plaintiff has alleged that father of the plaintiff was not in sound mind to execute Transfer Deeds. However, plaintiff has also failed to prove his said contention as no medical evidence whatsoever was brought on record by the plaintiff. On the contrary, PW2 Nachhattar Singh, during his cross-examination, has stated that Mukand Singh executed Transfer Deeds in favour of Dalbara Singh/defendant no.3 and his son Gurmit Singh/defendant no.2 of his own free will. As such, there is nothing



whatsoever on record to indicate that Mukand Singh was not of sound disposing mind.

10. Plaintiff had further alleged that Transfer Deeds have not been executed and registered as per Notification issued by Punjab Government. However, even the said contention is borne out to be incorrect from the record as impugned Transfer Deeds were duly registered by the Sub Registrar Raikot in his official capacity under the due provisions of law and rules framed by the Government. Defendant No.1 Dalbara Singh have also paid due stamp duty on the said Transfer Deeds as evident from Transfer Deeds Ex.D2 and Ex.D1.

11. Even there is no suspicious circumstances surrounding the impugned Transfer Deeds. Rather from the evidence, it has emerged that Mukand Singh was residing with his son Dalbara Singh and his grandson Gurjit Singh/defendant No.2, who were looking after him. As such, it is not unnatural that Mukand Singh would execute Transfer Deeds in their favour.

12. Even the contention of the plaintiff that Transfer Deeds were executed without delivery of possession, is proved to be incorrect vide copy of Khasra Girdawari Ex.D4, which shows possession of defendants No.1 and 2 over the suit land. Furthermore, execution of Transfer Deeds has been duly proved on record from the evidence of DW1 Rameshwar Singh and DW2 Amarjit Singh, who were marginal witnesses of the Transfer Deeds.

13. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.
14. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees of the learned District Courts. Hence, present Second Appeal stands **dismissed**.
15. Pending applications, if any, stand disposed of.

18.03.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No