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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1600-2001 (O&M)

Date of Decision: 11.03.2026

CHARANJIT SINGH

...Appellant

Vs.

SAJJAN SINGH AND OTHERS

...Respondents

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Ritu Punj, Advocate for the appellant.
None for the respondents.

VIRINDER AGGARWAL, J. (Oral)

1. The appellant/plaintiff No. 1 has preferred the present Regular Second Appeal challenging the concurrent judgments and decrees passed by the Courts below. It is contended that the findings recorded by both the learned Trial Court as well as the First Appellate Court are erroneous in law and on facts, and therefore liable to be set aside.

2. Briefly stated, the appellant/plaintiff No. 1 claims to be the legal heir of late Banta Singh. It is the case of the plaintiffs that during his lifetime Banta Singh executed a valid Will in their favour, and upon his death they succeeded to his estate and stepped into his shoes as his successors-in-interest. Originally, Puran Singh son of Sahab Singh was the owner of the suit property. He sold the said property to Labh Singh. Subsequently, Uttam Singh, Kehar Singh and Chanan Singh instituted a suit for pre-emption against Puran Singh and Labh Singh and obtained a decree in respect of land measuring 2 *biswas* out of the total land measuring 3 *biswas* 12 *biswas*. Thereafter, Uttam Singh sold his 1/3rd share out of the total land in favour of Banta Singh, who was the predecessor-in-interest of



the present plaintiffs. It is further the case of the plaintiffs that during the preparation of the Jamabandi, the Halqa Patwari committed an error by wrongly incorporating the names of Chanan Singh and Kehar Singh along with Banta Singh. According to the plaintiffs, Banta Singh was in fact the exclusive owner of the suit property measuring 1 *biswa* 2 *biswas*, which was carved out in lieu of the land measuring 3 *biswas* 12 *biswas* during the consolidation proceedings. The plaintiffs further alleged that the defendants were attempting to raise construction over the suit property, thereby threatening their rights and interest in the said land. Consequently, the plaintiffs were constrained to institute the present suit seeking appropriate relief. The suit was contested by the defendants, who denied the claim of exclusive ownership set up by the plaintiffs. It was pleaded that the predecessors-in-interest of the defendants, namely Chanan Singh and Kehar Singh, were co-owners in the suit property to the extent of 1/3rd share each, and therefore the plaintiffs could not claim exclusive ownership over the suit land. Upon consideration of the pleadings and evidence led by the parties, the learned Trial Court, vide judgment and decree dated 27.07.1995, dismissed the suit filed by the plaintiffs. Aggrieved by the said judgment and decree, the plaintiffs preferred an appeal before the learned Additional District Judge, Ludhiana. The learned First Appellate Court, vide judgment and decree dated 27.07.2000, partly allowed the appeal and held that the plaintiffs were co-owners in joint possession of 13/72 share in the suit property. The defendants were also restrained from alienating their share or raising construction over the suit property until the same was partitioned by metes and bounds. Still dissatisfied with the findings recorded by the



learned First Appellate Court, the present Regular Second Appeal has been filed by the appellant/plaintiff No. 1 before this Court. The appeal was admitted for hearing. Mr. A.K. Kalsy, Advocate appeared on behalf of respondent Nos. 1 and 3, who are the contesting respondents; however, he subsequently stopped appearing and remained absent during the course of the proceedings.

3. I have heard counsel for the appellant and gone through the file carefully.

4. 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.

5. The learned Additional District Judge, Ludhiana, has aptly and correctly discussed the factual matrix of the case in paragraph No. 12 of the impugned judgment. The said paragraph succinctly records the relevant facts and circumstances emerging from the evidence on record, and the same reads as under:

“12. The first point for consideration in this case is whether Puran Singh was the owner of the suit property. From copy of jamabandi 1943-44 Ex.P10, it is clear that



Puran Singh was owner of land measuring BO-B3-812 bearing khasra No. 840. This very position continued in jamabandi 1952-53 (Ex.P9), which was prepared as a result of consolidation of holdings. In this jamabandi in place of Khasra No. 840, Khasra No. 12686 now in dispute, was formed as a result of consolidation of holdings and area of this khara No. became BO-B1-B2. The nature of the suit land is mentioned as Gair Mumkin Kotha. In the column of ownership, the name of Puran Singh exists, whereas in the column of cultivation, Kehar Singh (Father of defendant No.3), Bante Singh, predecessor-in-interest of the plaintiffs and Chanan Singh (Predecessor-in-interest of defendants No.1 & 2) are entered to be in possession in equal shares as gair marusis. This very position continuous in the jamabandi for year 1960-61 (Ex.PB). In the jamabandi 1995-96 Ex. PS to Ex. P7, the position in the column of ownership and cultivation is the same. The only change is that instead of gair mumkin kotha, the nature of the suit land is described as gair mumkin ruri. In the jamabandi for the year 1985-86 Ex.P2 also, the nature of the suit land is described as gair mumkin ruri. The entries in the column of cultivation and ownership remain the same.

13. *Copy of the decree sheet Ex.P4 shows that Uttam Singh, Kehar Singh and Chanan Singh filed a pre-emption suit and sued for possession of BO-B2-BO kham area out of land measuring BO-B3-B12 Pukhta, out of khasra No. 840 against Puran Singh and Gurmail Singh, vendee of Puran Singh, on the ground that Puran Singh had sold the aforesaid BO-B2-BO area vide sale deed dated 24.10.46 and that they had the right to pre-emp the sale. The suit was decreed on 18.4.47 though no entry of the decree exist in the revenue record. Attested copy of the sale deed dated 2.3.48 (Ex.F3) shows that Uttam Singh one of Decree Holders of decree Ex.P4, claiming to be owner in possession of 3 biswas kham area of khasra No. 840 through the pre-emption decree, sold it for Rs. 600/- in favour of Banta Singh, predecessor-in-interest of the*



plaintiffs. As already observed, the decree was for the pre-emption of only 2 biswas kham area. Therefore, Uttam Singh had only 1/3 share in 2 Biswas Kham area of Khasra No. 840 and not ownership rights to the extents of 3 biswas area in this khasra No. Before consolidation, the area in this khasra No. 840 was BO-B3-B12 kham and after consolidation the area has been made BO-B1-B2. Uttam Singh had thus, only 13/72 share in the original khasra No. and what he sold is 60/72 share. The sale deed was valid, therefore, only to the extent and not of 13/72 share in favour of Banta Singh and not beyond that. Therefore, in teh suit land, in view of the pre-emption decree Ex.P4 and in view of the sale deed Ex.P3, executed by him in favour of Banta Singh, Banta Singh had got only 13/72 share. Issue is decided in favour of the plaintiffs to this extent only and finding of the learned trial court on this issue to this extent is reversed.”

6. It is an undisputed fact on record that Banta Singh, the predecessor-in-interest of the plaintiffs, had purchased only 1/3rd share out of the land measuring 2 biswas from Uttam Singh. It is equally not in dispute that Uttam Singh himself was owner only to the extent of 1/3rd share out of the said land measuring 2 biswas (kham). Consequently, Uttam Singh could convey title only to the extent of the share actually owned by him. In these circumstances, the sale deed executed by Uttam Singh in favour of Banta Singh could not, in any manner, prejudice or affect the rights of the other co-owners, namely Kehar Singh and Chanan Singh, who are the predecessors-in-interest of the contesting respondents/defendants. The learned First Appellate Court has, therefore, rightly held that the transfer made by Uttam Singh could operate only to the extent of his lawful share in the joint property.



7. The learned First Appellate Court has further correctly taken into account the effect of the consolidation proceedings, during which the area of the land was reduced from 3 bighas 12 *biswas* (*kham*) to 1 bigha 2 *biswas*. While determining the respective shares of the parties in the consolidated holding, the Court observed that the plaintiffs, through their predecessor Banta Singh, had stepped into the shoes of Uttam Singh and were entitled only to the share which Uttam Singh possessed in the original holding. Since Uttam Singh was a co-owner to the extent of 1/3rd share out of 2 *biswas* in the previous *khasra* numbers, his share in the original *khasra* numbers worked out to 13/72. However, as per the sale deed (Ex. P-3), Uttam Singh purported to sell 60/72 share to Banta Singh, which clearly exceeded the share actually owned by him. It is a settled principle of law that a co-owner cannot transfer a greater right or title than what he himself possesses. Therefore, the said sale deed could be held valid and operative only to the extent of the share actually owned by Uttam Singh, i.e. 13/72 share in the suit land.

8. In view of the above factual and legal position, the findings recorded by the learned First Appellate Court are in consonance with the settled principles governing transfer of property by a co-owner and the determination of shares after consolidation proceedings. The conclusions arrived at by the learned First Appellate Court are based upon proper appreciation of the evidence on record and correct application of law. This Court does not find any illegality, perversity, or material infirmity in the findings so recorded by the learned First Appellate Court warranting interference in the present Regular Second Appeal. Accordingly, the



judgment and decree passed by the learned First Appellate Court are hereby affirmed.

- 9. The present regular second appeal stands dismissed.
- 10. Pending applications, if any, shall also stands disposed of.

(VIRINDER AGGARWAL)
JUDGE

11.03.2026
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No