



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

(217)

RSA-2704-2001 (O&M)**Date of Decision :-04.02.2026**

Jagir Singh

...Appellant

Versus

Surinder Kaur and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present :-

Ms. K.S. Sidhu, Senior Advocate with
Mr. Praagbir Singh Dhindsa, Advocate
for the appellant.

Mr. Sunil Chadha, Senior Advocate with
Ms. Arash Deep Kaur, Advocate
for the respondents.

VIRINDER AGGARWAL, J.(ORAL)

1. Aggrieved by the reversal of the well-reasoned judgment and decree of the learned Trial Court dated 25.02.1999 by the learned Additional District Judge, Ludhiana, vide the impugned judgment dated 23.10.2000, the Appellant-Defendant begs to prefer this Regular Second Appeal ("RSA" for short). It is respectfully submitted that the learned First Appellate Court exceeded its jurisdiction by over-setting findings of fact based on a flawed evidentiary appreciation, thereby occasioning a failure of justice. The Appellant, therefore, seeks the intervention of this Court to



set aside the impugned judgment and decree, and to restore the decree dated 25.02.1999, ensuring the lawful resolution of the dispute.

2. The material facts and the sequence of events leading to the present appeal are succinctly summarized as follows:-

“The case of the plaintiffs is that defendant No.1, Ishar Kaur, was the owner of several parcels of land comprising khata Nos. 251/281, 252/282, and 609/677, as detailed in the plaint. Ishar Kaur sold portions of the suit land to Gurdev Singh, predecessor-in-interest of the plaintiffs, vide registered sale deed dated 01.12.1986 (Ex.P1), and subsequently to Amarjit Singh vide sale deed dated 31.07.1991 (Ex.P2). Following the death of Gurdev Singh, his daughters, Paramjit Kaur and Sharanjit Kaur, relinquished their interest in favour of plaintiff No.1, leaving the plaintiffs in lawful possession. Defendant No.1 thereafter purported to sell a portion of the same land to defendant No.2, Jagir Singh, vide sale deed dated 21.01.1991 (Ex.D1). Plaintiffs contend that the sale to defendant No.2 was illegal and void, as Ishar Kaur had no ownership in the land sold, her interest having been partially transferred under Ex.P1 and Ex.P2. Consequently, the plaintiffs instituted the present suit seeking a declaration of ownership and possession, and for permanent injunction restraining dispossession by the defendants. Defendant No.1 has been formally relinquished as a party in the suit.”

3. Upon service of summons, defendant No.2 contested the suit by filing a written statement, denying that defendant No.1, Ishar Kaur, executed sale deed Ex.P1 in favour of Gurdev Singh, asserting that the deed was false, fabricated, and had been denied by Ishar Kaur before the revenue authorities during mutation proceedings. He denied knowledge of



any sale deed in favour of Amarjit Singh or the plaintiffs, asserting that his own sale deed Ex.D1 was valid, executed for consideration, and admitted by defendant No.1. He further contended that the suit was not maintainable, barred by misjoinder and non-joinder of parties, estoppel, and absence of possession by the plaintiffs.

4. The plaintiffs filed a replication, expressly controverting the contentions raised by the defendants and reiterating the allegations as set forth in the plaint. Thereafter, upon a meticulous and comprehensive examination of the pleadings, documentary evidence, and oral submissions advanced by learned counsel for both parties, the learned trial Court proceeded to frame issues for adjudication. The framing of such issues was undertaken with a view to ensuring a precise, structured, and exhaustive determination of the rights, obligations, and claims of the respective parties, as well as to facilitate a fair and just resolution of the present dispute, which are enumerated as follows:-

1. *Whether the plaintiffs are entitled to declaration that they are owners in possession of land measuring 1B-7B-0B owners on the basis of sale-deed dated 01.12.1986 executed by defendant No.1 in favour of Gurdev Singh to the extent of 0B-13B-6-2/3B and on the basis of sale deed executed by defendant No.1 in favour fo Amarjit Singh, who subsequently sold in favour of plaintiff to the extent of 0B-13B-13/1/3B as prayed for? OPP*
2. *Whether the sale deed dated 21.1.1991 executed by defendant No.1 in favour of defendant No.2 is illegal, null and void as prayed for? OPP*



3. *Whether the plaintiffs are entitled to the relief of perpetual injunction as prayed for ? OPP*
4. *Whether the sale deed in favour of Gurdev Singh is false, fabricated and forged document? OPD*
5. *Whether the suit is not maintainable the present form? OPD*
6. *Whether the suit is bad for mis-joinder and non-joinder of necessary parties? OPD*
7. *Whether the plaintiff is estopped by his own act and conduct? OPD*
8. *Whether the plaintiff has no action to file the present suit? OPD*
9. *Relief.*

5. Both parties were provided ample opportunity to adduce evidence in support of their respective contentions. Upon the conclusion of the trial and after hearing learned counsel for both sides, the learned Trial Court dismissed the suit. Aggrieved by the dismissal, the respondents/plaintiffs filed an appeal before the learned First Appellate Court, which allowed the appeal.

6. Challenging the findings of the First Appellate Court, the appellant/defendant instituted the present appeal. Following its admission, notices were issued, and the respondents appeared through counsel and contested the appeal. The records of the courts below have been made available on DMS for comprehensive scrutiny and adjudication.

7. I have heard learned counsel for the parties at length and considered their submissions in conjunction with the pleadings, the evidence on record, and the concurrent findings of the courts below. The entire record has been subjected to a meticulous and detailed examination to determine *‘whether the impugned judgments and decrees suffer from*



any legal infirmity, jurisdictional error, or misappreciation of evidence that would warrant interference by this Court’?

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 appearing for the appellant assailed the impugned judgment by contending that the learned Lower Appellate Court failed to properly appreciate and evaluate the findings recorded by the learned Civil Judge and erroneously reversed the same on a misreading and misinterpretation of the material on record. It was urged that the sale deed executed by Ishar Kaur in favour of the appellant was wrongly invalidated, despite the categorical admission by Ishar Kaur regarding its execution, coupled with her specific denial of any sale deed in favour of Gurdev Singh. It was further contended that the respondents had no lawful or subsisting right to seek a declaration that the sale deed executed in favour of the appellant was illegal, null and void. On these premises, it was prayed



that the findings of the learned First Appellate Court be set aside and those of the learned Civil Judge be restored.

10. Per contra, learned counsel for the respondents submitted that the judgment rendered by the learned First Appellate Court suffers from no illegality, infirmity, or perversity. It was argued that the learned First Appellate Court has correctly appreciated the factual and legal position that Ishar Kaur was left with no ownership interest in the property in question and, consequently, the sale deed Ex.D1 was rightly held to be illegal, null and void to the extent it exceeds her alleged 1/8th share.

11. In the present matter, both the appellants and the respondent–plaintiff assert title to the suit property on the basis of separate sale deeds alleged to have been executed by Ishar Kaur in their respective favour. It stands admitted on record that the sale deed in favour of the respondent–plaintiff is prior in point of time to sale deed Ex.D1 executed in favour of the appellant–defendant. The learned First Appellate Court has returned a categorical finding that land, to the extent covered under sale deed Ex.D1, Ishar Kaur had already divested herself of title and was left with ownership of a lesser share only. This finding has been specifically recorded in paragraph 24 of the impugned judgment, which reads as under:-

24. *“Now the question is as to what share the plaintiffs can be said to have purchased out 0-18-5 vide sale deed Ex.P1 which has measuring been sold by Ishar Kaur to the respondent vide sale deed Ex.D1. The share of Ishar Kaur in these three khasra Nos. and in the other land sold to Gurdev Singh predecessor-in-interest of plaintiff vide sale deed Ex.P1 was 1/4, If it be accepted that the area of Khasra Nos. 18//8/3, 13/1 and 546 was not 1-18-5 but was 0-18-5 as pleaded by the plaintiffs then the total area of khasra numbers mentioned in the sale deed Ex.P1 comes to 6-6-5 out of which the share of Ishar Kaur Out of this share, Ishar Kaur sold her 1-13-6-2/3 area to Gurdev Singh vide sale deed Ex.P1 which*



is almost half of the area of her share. That means she sold 1/2 share out of 1/4 share Gurdev Singh or 1/8 share out of total area. Thus, it is quite clear that in khasra No.18//8/3, 13/1 and 546 0-18-5) in which Ishar Kaur had (corresponding execution of 1/4 to share to 0-4-11-1/4 area, at the time of the sale deed Ex.D1, she was left with only 1/8 share, having already transferred 1/8 share to Gurdev Singh and thus, she could transfer only her 1/8 share in this area to the respondent vide sale deed Ex.D1 and nothing beyond that. Therefore, a clear analysis of the facts shows that the sale deed Ex.D1 is invalid to the extent it transfers more than 1/8 share of Ishar Kaur in the land mentioned therein.”

12. Respondent–plaintiff is entitled to ownership only to the extent of land purchased by him vide sale deed Ex.P1 and cannot assert any right, title, or interest in the remaining land.

13. In such circumstances, the respondent–plaintiff had no locus to seek a declaration that sale deed Ex.D1 be declared null and void in its entirety. The only declaration to which he could legitimately lay claim was that the subsequent sale deed Ex.D1 would not affect or prejudice his prior right, title, or interest in the suit land acquired under sale deed Ex.P1. Notably, sale deed Ex.D1 was executed by Smt. Ishar Kaur, who, though initially impleaded as a party, was subsequently given up. Further, other vendees in whose favour Smt. Ishar Kaur had executed sale deeds were not impleaded as parties to the suit. In this backdrop, the entitlement and inter se rights of the appellant–defendant on the basis of sale deed Ex.D1 could only be conclusively adjudicated at the stage of partition, as correctly held by the learned trial Court.

14. The learned trial Court, therefore, rightly appreciated the factual matrix and legal position governing the dispute. Accordingly, the appeal is allowed, and the judgment and decree passed by the learned First Appellate Court is modified to the extent that the respondent–plaintiff shall



be entitled only to a declaration that sale deed Ex.D1 executed by Smt. Ishar Kaur in favour of Jagir Singh shall not affect his right, title, or interest in the suit land purchased by him vide sale deed dated 01.12.1986 executed in favour of Gurdev Singh. The appellant–defendant is further restrained from dispossessing the respondent–plaintiff from his peaceful possession on the basis of sale deeds dated 01.12.1988 and 26.10.1990/31.07.1991. The determination of the right, title, or interest of the appellant–defendant in the suit property shall, however, remain open and shall be finally adjudicated at the time of partition of the joint holding previously owned by Smt. Ishar Kaur.

15. In view of the foregoing discussion, the appeal stands disposed of in the aforesaid terms.

16. Consequently, as the principal matter has been finally adjudicated, all pending miscellaneous applications, if any, shall also stand disposed of. No further or separate orders are required to be passed in that regard.

04.02.2026
Gaurav Sorot

(VIRINDER AGGARWAL)
JUDGE

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